

99 Repa Road  
Underhill, VT 05489

November 29, 2016

Carmen Cote, COM  
Vermont Superior Court  
Chittenden Civil Unit  
175 Main Street  
PO Box 187  
Burlington, VT 05402-0187

**Re: Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman v.  
Town of Underhill, Docket No. 333-4-15 Cnev**

Dear Carmen:

Please find enclosed Defendants Stanley and Sue Sengers' Motion to Compel for filing with the Court, along with a Certificate of Service, in the above-captioned matter.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Stanley Senger". The signature is written in a cursive style with a long horizontal stroke at the end.

Stanley Senger

Enclosures

cc: Carl and Carol Menard  
David Arnold  
Elizabeth M. Demas, Esq.  
Hans G. Huessy, Esq.

{00229563.1}

STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
DOCKET NO. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living )  
Trust of Barbara S. Eastman, )  
) )  
Plaintiff, )  
) )  
v. )  
) )  
Town of Underhill, David Arnold, )  
Stanley and Sue Senger, and Carl and )  
Carol Menard, )  
) )  
Defendants. )

**CERTIFICATE OF SERVICE**

I certify that I have today delivered **Defendants Stanley and Sue Sengers' Motion to Compel** to all other parties to this case as follows:

- By first class mail by depositing it in the U.S. mail;
- By personal delivery to \_\_\_\_\_ or his/her counsel;
- Other. Explain: \_\_\_\_\_

The names and addresses of the parties/lawyers to whom the mail was addressed or personal delivery was made are as follows:

Elizabeth M. Demas, Esq.  
Clark Demas & Baker  
346 Shelburne Road, Suite 203  
PO Box 4484  
Burlington, VT 05406-4484

Carl and Carol Menard  
100 Repa Road  
Underhill, VT 05489

David Arnold  
c/o Presto Music  
166 Dorset Street  
So. Burlington, VT 05403

Hans G. Huessy, Esq.  
Murphy Sullivan Kronk  
275 College Street  
PO Box 4485  
Burlington, VT 05406-4485

Dated at Burlington, Vermont this 29 day of November, 2016.

Signature: Stanley Senger

Print Name: Stanley Senger, pro se

STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
DOCKET NO. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman,	)
	)
	)
Plaintiff	)
	)
v.	)
	)
Town of Underhill,	)
	)
Defendant	)

**MOTION TO COMPEL**

NOW COME Defendants, Stanley and Susan Senger (the “Sengers”), *pro se*<sup>1</sup>, and hereby respectfully move this Court to issue an Order pursuant to V.R.C.P. 26(h) and V.R.C.P. 37 compelling Plaintiff to provide responses to *Defendants’ First Set of Discovery Requests*. In support of this Motion, the Appellants submit the attached Affidavit of Stanley Senger, with supporting exhibits.

1. On September 2, 2016, the Stengers served Plaintiff with their First Set of Discovery requests. *Affidavit of Stanley Senger (“Affidavit”)* ¶ 1.
2. The sole item requested was a copy of the Revocable Living Trust of Barbara Eastman. *Affidavit* at ¶ 2.
3. On September 16, 2016, Plaintiff responded, refusing to produce the document and alleging the request was unduly burdensome, that the document was irrelevant and that the document was protected by attorney-client privilege. *Affidavit* at ¶ 3.
4. On September 23, 2016, Mr. Senger wrote to Plaintiff, challenging the grounds for withholding the document and reiterating his request that it be produced. *Affidavit* at ¶ 4.
5. Mr. Senger also had telephone conversations with Plaintiff about the document request in an attempt to reach a resolution. *Affidavit* at ¶ 5.

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<sup>1</sup> Counsel for co-Defendant, the Town of Underhill, has assisted the Sengers in the drafting of this motion.

6. On September 30, 2016, Plaintiff's counsel wrote Mr. Senger and stated the document contained no relevant information, asking Mr. Senger to take her representations as to its contents rather than affording Mr. Senger an opportunity to review the document. *Affidavit* at ¶ 6.
7. On October 6, 2016, Mr. Senger again wrote Plaintiff in an effort to resolve the dispute. *Affidavit* at ¶ 7.
8. On October 25, 2016, Plaintiff provided an affidavit signed by the Trustee as to the document's contents. *Affidavit* at ¶ 8.
9. On November 4, 2016, Mr. Senger again wrote to Plaintiff, demanding a copy of the document. *Affidavit* at ¶ 9.
10. To date, no copy of the document has been produced and more than thirty days have elapsed since the date of the request. *Affidavit* at ¶ 10.
11. Plaintiff has refused to produce the document without any valid legal objection to its production. Plaintiff has asked Defendants to accept an affidavit from the Trust's trustee as to its contents. However, Defendants are entitled to conduct their own review of the document to determine if it contains any information relevant to this proceeding.
12. Defendants have attempted to resolve their dispute and have corresponded with counsel for the Trust seeking production of the document pursuant to V.R.C.P. 26(h). *Affidavit* at ¶¶ 1-10.
13. Pursuant to V.R.C.P. 34(b), a party upon whom requests for production of documents have been served must serve a written response to such requests within 30 days of receiving them.
14. Pursuant to V.R.C.P. 37(a)(2), the Court, upon motion of the party seeking discovery, may issue an order compelling a party that has failed to respond to requests for production to produce the requested documents.
15. Pursuant to V.R.C.P. 37(a)(4), upon granting a motion to compel and after opportunity for a hearing, the Court shall require the party or attorney whose conduct necessitated the motion to pay the moving party its reasonable expenses incurred in obtaining the order, including attorney's fees.

16. Pursuant to V.R.C.P. 37(d), if a party fails to respond to requests for production it may be subject to sanctions under V.R.C.P. 37(b)(2) and may be ordered to pay the moving party's reasonable expenses, including attorney's fees, which are incurred as a result of the failure to respond to requests for production.

Accordingly, based on the facts set forth above and the Affidavit of Stanley Senger, the Defendants respectfully request that the Court GRANT this Motion to Compel and Order the following:

1. That the Trust Produce a copy of the original Trust Document and any amendments or restatements thereof;
2. Grant the Defendants their costs and legal fees incurred in filing this Motion to Compel; and
3. Grant such other and further relief as may be just and proper.

Dated at Burlington, Vermont this 29 day of November, 2016.

  
Stanley Senger

STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
DOCKET NO. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman,	)
	)
Plaintiff	)
	)
v.	)
	)
Town of Underhill, David Arnold, Stanley and Sue Senger, and Carl and Carol Menard,	)
	)
Defendant	)

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**AFFIDAVIT OF STANLEY SENGER**

I, Stanley Senger, being more than eighteen years old, first duly sworn, depose and say as follows, based on my personal knowledge:

1. On September 2, 2016, I served discovery on Plaintiff. Exhibit A.
2. The discovery sought production of a single document, the Revocable Living Trust of Barbara S. Eastman, plus any amendments thereto.
3. On September 16, 2016, Plaintiff responded, refusing to produce the document and alleging the request was unduly burdensome, that the document was irrelevant and that the document was protected by attorney-client privilege. Exhibit B.
4. On September 23, 2016, I wrote to Plaintiff, challenging the grounds for withholding the document and reiterating my request that it be produced. Exhibit C.
5. I also had telephone conversations with Plaintiff about the document request in an attempt to reach a resolution.

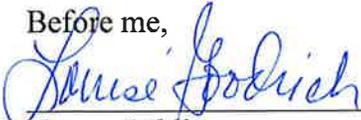
6. On September 30, 2016, Plaintiff wrote me and stated the document contained no relevant information, asking me to take her representations as to its contents rather than affording me an opportunity to review the document. Exhibit D.
7. On October 6, 2016, I again wrote Plaintiff in an effort to resolve the dispute. Exhibit E.
8. On October 25, 2016, Plaintiff provided an affidavit signed by the Trustee as to the document's contents. Exhibit F.
9. On November 4, 2016, I again wrote to Plaintiff, demanding a copy of the document. Exhibit G.
10. To date, the Trust has not produced the document.

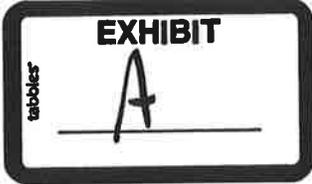
DATED at Burlington, Vermont this 29 day of November, 2016.

  
\_\_\_\_\_  
Stanley Senger

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, in said County and State, on this 29 day of November, 2016, personally appeared Stanley Senger, a person known or properly identified to me, and he acknowledged this instrument to be his free act and deed.

Before me,  
  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 2/10/19



STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
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Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman,	)
	)
Plaintiff	)
	)
v.	)
	)
Town of Underhill, et al.	)
	)
Defendants	)

**DEFENDANTS SENGER'S FIRST SET OF DISCOVERY REQUESTS**

NOW COMES Defendants, the Sengers, and hereby request that Plaintiff produce the requested documents within thirty (30) days. All responses shall be made in accordance with V.R.C.P. 26, 33, and 34.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Vermont Rules of Civil Procedure, Defendants request that Plaintiff produce the following documents for inspection and copying at the home of the Sengers within thirty (30) days of the date hereof.

**Request for Production No. 1**

Please produce a copy of the Revocable Living Trust of Barbara S. Eastman trust document.

**THE FOREGOING REQUESTS TO PRODUCE SHOULD BE DEEMED TO BE CONTINUING IN NATURE INsofar AS REQUESTED ITEMS MAY COME INTO THE POSSESSION OF PLAINTIFF AND ITS ATTORNEYS BETWEEN THE PRESENT TIME AND THE TIME OF TRIAL.**

Dated at Underhill, Vermont this 2 day of September 2016.

*Stanley Senger*  
 \_\_\_\_\_  
 Stanley Senger  
 Pro Se

STATE OF VERMONT

SUPERIOR COURT  
Chittenden Unit

CIVIL DIVISION  
Docket No.333-4-15Cncv

Brianne E. Chase, Trustee of the Revocable Living  
Trust of Barbara S. Eastman  
*Plaintiff*

v.

Town of Underhill, David Arnold,  
Stanley and Sue Senger, and Carl and  
Carol Menard,  
*Defendants*

**PLAINTIFF'S RESPONSES TO DEFENDANT STANLEY SENGER'S FIRST SET OF  
DISCOVERY REQUESTS AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

NOW COMES Plaintiff Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara  
S. Eastman and hereby responds to Defendant Stanley Senger's First Set of Discovery Requests and  
Requests for Production of Documents as follows:

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. Please produce a copy of the Revocable Living Trust of Barbara S. Eastman trust  
document.

RESPONSE: Objection – protected by attorney-client privilege, irrelevant, unduly  
burdensome and beyond the scope of discovery permitted by V.R.C.P.

Dated at Burlington, Vermont, this 16<sup>th</sup> day of September, 2016.

As to Objections:

  
Elizabeth M. Demas, Esq.

Attorney for Plaintiff  
Clarke Demas & Baker PLLC  
346 Shelburne Road, Suite 602  
Burlington, Vermont 05401  
[edemas@cdbesq.com](mailto:edemas@cdbesq.com)

CLARKE DEMAS  
& BAKER  
ATTORNEYS AT LAW  
46 SHELburne RD., 2<sup>nd</sup> FLOOR  
P.O. BOX 4484  
BURLINGTON, VT 05406-4484  
TELEPHONE (802) 652-1400  
FAX (802) 652-1405

STATE OF VERMONT

SUPERIOR COURT  
CHITTENDEN UNIT

CIVIL DIVISION  
DOCKET NO. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman,  
Plaintiff  
v.  
Town of Underhill, et al.  
Defendants

**DEFENDANTS SENGERS' FIRST SET OF DISCOVERY REQUESTS**

**Response to Response Request for Production No. 1**

Please produce a copy of the Revocable Living Trust of Barbara S. Eastman trust document.

Dear Elizabeth,

This letter is written in order to comply with V.R.C.P. 26(h). I am in receipt of your response to my discovery request. The objections you raise to producing the Trust document are without basis.

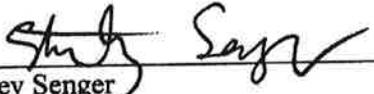
How can it be unduly burdensome to produce a single document?

On what basis can you contend that the document was prepared in anticipation of litigation?

A trust document by its very nature is not confidential and it is anticipated that the document may be filed in Court and/or used to establish the rights and obligations of the beneficiaries.

The document, to the extent it sets forth any statement about the subject property is clearly relevant. Please produce the document or I will have no choice but to file a Motion to Compel.

Dated at Underhill, Vermont this 23 rd day of September, 2016

  
Stanley Senger  
Pro Se

CLARKE DEMAS & BAKER, PLLC  
Attorneys at Law

C. KIRK CLARKE

346 SHELBURNE ROAD,  
SUITE 203

ELIZABETH M. DEMAS

PHONE: 802-652-1400

POST OFFICE BOX 4484

BRUCE D. BAKER

FAX: 802-652-1405

BURLINGTON, VT 05406-  
4484

\*\*\*\*\*

MOLLY BUCCI

Of Counsel: PETER L.  
POTTS

September 30, 2016

Mr. Stanley Senger  
99 Repa Road  
Underhill, Vermont 05489

Re: *Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman*  
Docket No. **333-4-15 Cncv**

Dear Stan:

Thank you for your telephone call yesterday. As we discussed, I read the Trust Agreement once again, looking for any reference to restrictions imposed on the Westford Property. The Trust authorizes the Trustees to sell, mortgage, or otherwise transfer the property. It contains no specific limitations on the use of the Westford land. There are no provisions requiring the land be kept open, or kept in conservation use, or anything similar. The provisions mainly set out the disposition of the Eastman assets.

Please give me a call if you have any questions or concerns regarding this matter.

Sincerely,



Elizabeth M. Demas, Esq.  
Clarke Demas & Baker, PLLC  
346 Shelburne Road, Suite 203  
Burlington, Vermont 05401  
(802) 652-1400  
[edemas@cdbesq.com](mailto:edemas@cdbesq.com)



Dear Beth;

October 6, 2016

Thank you also for the call, and the follow up letter. I appreciate that you reviewed the trust contents again.

During our phone call you mentioned you considered signing an affidavit of your findings, if any, of any restrictions in the Eastman Trust.

I requested that you send the court an un-redacted copy of the Eastman Trust. You mentioned it was not typical to do this.

I can be happy concluding this request for disclosure if:

- 1) You send me a redacted copy of the trust containing all relevant Eastman Trust information. As you claim none, please send me an affidavit stating such.

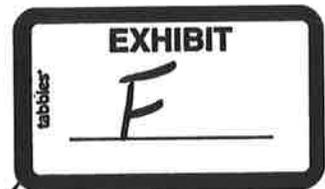
And

- 2) You send the court an un-redacted copy of the Eastman Trust. Typical or not it should not be a large burden for you to do this and would satisfy me along with request 1 for closure.

Thank you.

Sincerely,

*Stanly Senger*  
Stan Senger



CLARKE DEMAS & BAKER, PLLC  
Attorneys at Law

C. KIRK CLARKE

346 SHELBURNE ROAD,  
SUITE 203

ELIZABETH M. DEMAS  
BRUCE D. BAKER

PHONE: 802-652-1400  
FAX: 802-652-1405

POST OFFICE BOX 4484  
BURLINGTON, VT 05406-  
4484

\*\*\*\*\*

MOLLY BUCCI

Of Counsel: PETER L.  
POTTS

October 25, 2016

Mr. Stanley Senger  
99 Repa Road  
Underhill, Vermont 05489

Re: *Brianne E. Chase, Trustee of the Revocable Living Trust of Barbara S. Eastman*  
Docket No. **333-4-15 Cncv**

Dear Stan:

Attached is an affidavit of Brianne Chase, Trustee.

Please give me a call if you have any questions or concerns regarding this matter.

Sincerely,

Elizabeth M. Demas, Esq.  
Clarke Demas & Baker, PLLC  
346 Shelburne Road, Suite 203  
Burlington, Vermont 05401  
(802) 652-1400  
[edemas@cdbesq.com](mailto:edemas@cdbesq.com)

STATE OF VERMONT

SUPERIOR COURT  
Chittenden Unit

CIVIL DIVISION  
Docket No. 333-4-15 Cncv

Brianne E. Chase, Trustee of the Revocable Living  
Trust of Barbara S. Eastman,  
*Plaintiff*

v.

Town of Underhill,  
*Defendant*

**AFFIDAVIT OF BRIANNE E. CHASE, TRUSTEE**

NOW COMES BRIANNE E. CHASE, in her capacity as Trustee of the Barbara Eastman  
Trust, and being duly sworn, deposes and says:

1. I have reviewed the Barbara S. Eastman Trust, dated January 29, 1993, as amended.
2. The Trust does not contain any restrictions on the use of the Westford land, which is the subject of this action.

Dated at Burlington, Vermont this 25<sup>th</sup> day of October, 2016.

  
Brianne E. Chase, Trustee

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington in said County this 25<sup>th</sup> day of October, 2016, personally appeared Brianne E. Chase, Trustee and made oath to the truth of the foregoing.

Before me,

  
Notary Public

CLARKE DEMAS  
& BAKER  
ATTORNEYS AT LAW  
6 SHELBURNE RD., 2<sup>ND</sup> FLOOR  
P. O. BOX 4484  
BURLINGTON, VT 05406-4484  
TELEPHONE (802) 652-1400  
FAX (802) 652-1405

Dear Beth;

November 4, 2016

Thank you for the affidavit. Unfortunately, I believe I still need, and am entitled to, the actual copy of the Trust document: original and amended versions.

The affidavit is qualified and vague. I am not obligated to accept your client's word for what the document does or does not say. You have not raised any valid legal basis for withholding the document and it is clearly discoverable.

If you do not agree to produce the document, original and amended versions, within the next 10 days I will have no choice but to file a Motion to Compel.

Sincerely,

Stan Senger

*Stan Senger*

*Nov 4, 2016*