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## Answers to First Request for Production of Documents

Marilyn B. Cassidy  
*Cuyahoga County Assistant Prosecutor*

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4/23/99

IN THE COURT OF COMMON PLEAS

CUYAHOGA COUNTY, OHIO

ALAN J. DAVIS, Special	)	CASE NO. 312322
Administrator of the Estate of	)	
SAMUEL H. SHEPPARD	)	JUDGE RONALD SUSTER
	)	
Plaintiff	)	
	)	<u>ANSWERS TO</u>
-vs-	)	<u>FIRST REQUEST FOR</u>
	)	<u>PRODUCTION OF DOCUMENTS</u>
STATE OF OHIO	)	
	)	
Defendant	)	

Pursuant to Ohio R. Civ. P. 34, Plaintiff hereby requests the production, or inspection and copying, of the following documents:

**INSTRUCTIONS AND DEFINITIONS**

**A. Instructions**

1. This discovery request is deemed continuing in nature, and you are requested to correct and supplement a response to any request promptly after receiving or obtaining any information responsive to any request.

2. As required by law, your responses should supply information and comments not only in your possession, custody or control, but also that are available to all other persons acting on your behalf in this case.

If a document known by you to have existed no longer exists, identify the circumstances of the loss or destruction of the document. If a document was once but

is no longer in your possession, identify its present location and custodian, if known; otherwise, identify its last known location and custodian.

3. Where the context herein makes it appropriate, each singular word shall include its plural and each plural word shall include its singular. "Any" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery all responses which might otherwise be construed as outside its scope. Each of the following words includes the meaning of every other word: "each," "every," "all," and "any." The present tense shall be construed to include the past tense, the past tense shall be construed to include the present tense. The masculine shall be construed in the generic sense.

#### **B. Definitions**

1. "Document" means any medium in the custody, control, or possession of, or available or accessible to, either you or your counsel, upon which information is recorded or from which information can be recorded, including without limitation the generality of the foregoing: letters; correspondence; memoranda; notes; telegrams; pamphlets; reports; ledgers; records; studies; books; working papers; diaries; charts; papers; drawings; photographs; sketches; graphs; indices; data sheets; data processing cards; authorizations; computer printouts; information contained in, or on, or retrievable from computer programs; agenda; interoffice and intraoffice communications and/or directives; regulations; standards; guidelines; and each copy of any of the foregoing which is non-identical because of marginal notations, revisions or otherwise.

2. "Relating to" means constituting, defining, describing, containing, discussing, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

3. "Communication" means, refers to, and includes any transfer of information between persons, whether written or oral, direct or indirect, made by any method; including, without limitation, in-person communication, telephonic communication, written correspondence and/or telecopiers.

### REQUESTS FOR PRODUCTION

1. The transcript of Dr. Sheppard's 1954 trial. Supplied.

2. Any and all documents and communications relating to Robert Parks and his attempts to elicit information from Richard Eberling about crimes committed by Eberling. Objection. Privileged law enforcement investigatory material(s). See State, ex rel v. Steckman (1994) 70 Ohio St. 3d 420, State, ex rel. Leona White (1996) 75 Ohio St. 3d 516.

3. Any and all documents obtained from Richard Eberling concurrent with or subsequent to his death in Orient Correctional Institution in the fall of 1998.

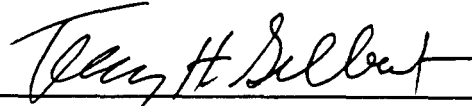
*Will produce at a mutually convenient time*

### REQUESTS FOR INSPECTION AND COPYING

4. Please identify a time to make available for inspection and copying any and all documents and exhibits relating to the 1954 prosecution and conviction of Dr. Sheppard, the appeals, post-conviction petitions, and *habeas corpus* petitions filed after his conviction, the 1966 retrial, and the above-captioned wrongful imprisonment action based on those proceedings. To defendant's knowledge, no *habeas corpus* documents are within defendant's custody or control. Any documents and exhibits relating to the 1954 prosecution of Samuel Sheppard and discoverable pursuant to Rule 26 are public and are a part of the Court's file. The prosecutor's litigation file is privileged product. Hickman v. Taylor, (1947), 329 U.S. 495, 67 Supreme Court 385. Finally, defendant objects to plaintiff's production request relative to the pending civil as overbroad, unduly burdensome, and beyond the scope of Rule 26. Please specify documents and tangible things plaintiff seeks. These records are and have been available

Respectfully submitted,

FRIEDMAN & GILBERT



TERRY H. GILBERT (0021948)

Attorney for Plaintiff

1700 Standard Building

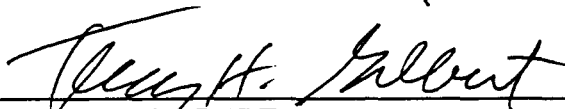
1370 Ontario Street

Cleveland, OH 44113

(216) 24101430

**CERTIFICATE OF SERVICE**

A copy of the foregoing First Request for Production of Documents has been hand-  
delivered, this 15 day of MARCH, 1999, to Marilyn Cassidy, Esq.,  
Assistant Prosecuting Attorney, Justice Center, 1200 Ontario Street, Cleveland, Ohio  
44113.

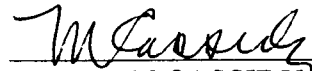


TERRY H. GILBERT

Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

The original of the foregoing Answers to First Request for Production of Documents has been sent by ordinary U.S. Mail, postage prepaid, this 23 day of April, 1999, to Terry H. Gilbert, Attorney for Plaintiff, at 1700 Standard Building, 1370 Ontario Street, Cleveland, Ohio 44113.



MARILYN CASSIDY  
Assistant Prosecuting Attorney