

**THE ILLINOIS POLLUTION CONTROL BOARD
PCB 23-133**

Anna Andrushko, Complainant vs Thomas Egan, Respondent

FOURTH MOTION TO COMPEL DISCOVERY AND SANCTIONS

Federal Rules of Civil Procedure Rule 33 for interrogatories and Rule 37 for motions to compel.

The Respondent has a duty to provide full and complete answers to discovery requests.

Order compelling the Respondent to fully and completely answer outstanding interrogatories.

This is the third time the Respondent failed to adequately respond. This is a pattern of non-compliance.

On June 04, 2024, Complainant's Interrogatories to Respondent were originally served.

On August 08, 2024, first set of deficient responses was received. Questions 4-16 are insufficient. Deficiencies are not justified, non-responsive, evades the question.

Question 4: Objection.

Question 6: Objection. Not relevant.

Question 7: Objection. Not relevant.

Question 8: Objection. Not relevant.

Question 9: Objection. Not relevant.

Question10: Objection. Not relevant.

Question 11: Objection. Not relevant.

Question 12: Objection. Not relevant.

Question 13: Objection. Not relevant.

Question 14: Objection. Not relevant.

Question 15: Objection. Not relevant.

Question 16: Objection. Not relevant.

On November 18, 2024, Motion to Comply Discovery – Respondent's Interrogatories to Complainant was served.

Electronic Filing: Received, Clerk's Office 07/03/2025

On December 30, 2024, Respondent's Supplemental Reply to Petitioner's Motion to Comply with Petitioners' Request for Production was received. Second set of deficient responses was received. Questions 2-7 are insufficient. Deficiencies are non-responsive, evades the question.

Question 2: Witnesses are unknown at this time.

Question 3: Respondent does not know at this time.

Question 4: Respondent cannot find the plat of survey.

Question 5: Respondent does not have photos of yard.

Question 6: Respondent has no documentation. Investigation continues.

Question 7: None. Investigation continues.

On May 07, 2025, Revised Complainant's Interrogatories to Respondent & Request for Production was served. These interrogatories were both previous questions and additional questions.

On May 29, 2025, Respondent's Answer to Revised Complainant's Interrogatories was received. Third set of deficient responses was received Questions are insufficient.

3. (g) Where did you acquire the dog? What facility, shelter, or owner? Please state facility, shelter and location. Provide a License of the facility or Business License.

Answer: The dog was purchased from Mr. Patrick Biro, who now lives in France.

Response evades question. The complainant expects a full and complete answer.

3. (o) Characteristics of the dog influenced by breeding for specific purposes and behavioral tendencies and temperaments:

**What is the breed group? Sporting, Hound, Terrier, Working, Toy, Non-Sporting, Herding?
Please explain.**

What is the adaptability? Suited for what environment or lifestyle? Apartment living or active outdoor adventures? Please explain.

Answer: The dog is a terrier. They like to go outside.

Response is vague. Evades question. The complainant expects a full and complete answer.

5. Have you consulted your vet or trainer about continued behavior of your dog barking when you continue to face issues? Please provide documentation. Please explain.

Answer: No.

Response is vague. Evades question. The complainant expects a full and complete answer.

9. (a). Do you provide basic health and welfare to eliminate disturbing the neighbors from barking? Please list, such as adequate food, water, shelter, yard space, companionship for the dog?

Answer: Yes, the dog is provided with basic health and welfare along with adequate food, water, shelter, yard space, and companionship. Yes, the dog is kept in a fenced-in yard.

Response is vague. Evades question. The complainant expects full and complete answer.

9 (b). To avoid your dog from excessive barking, how do you keep things interesting for your dog? Do you provide plenty of chew toys for your dog to play with? Raw bones, toys, chew ropes, etc.? Provide documentation.

Answer: I do not leave the dog outside alone and I bring him in when he barks at critters.

Response evades question. The complainant expects full and complete answer.

9 (c). Do you teach boundaries? Please explain. Provide documentation.

Answer: The dog loves to fetch tennis balls.

Response evades question. The complainant expects a full and complete answer.

9 (d). Dogs are territorial and don't take kindly to other critters invading their space, such as roaming bands of feral cats, racoons, squirrels, etc. How do you resolve your dog from barking and annoying the neighbors? What steps (doggie door, muzzles, electronic collars, landscape) have you taken to eliminate excessive barking behavior during the day that will disturb the neighbors?

Answer: The dog is barking because of cats and squirrels. I provide exercise by taking him to the dog park.

Response evades question. The complainant expects a full and complete answer.

9 (e). What stimulation do you have available in your yard to keep your dog occupied outside to avoid or limit barking?

Answer: I do not leave the dog alone outside or isolated and I am usually home with the dog on a daily basis.

Response evades question. The complainant expects a full and complete answer.

- 9 (f). Common causes of dog barking include: dislikes being left alone, frustration, guarding instinct, attention seeking, frightened, boredom, or excitement, etc. What is the reason your dog is barking? Do you provide daily exercise? Please explain.**

Answer: Omitted

Response is non responsive. The Respondent did not answer at all. The complainant expects a full and complete answer.

- g. Do you isolate your dog in our backyard with no human interaction? This practice can lead to dog barking. Please explain.**

Answer: Omitted

Response is non responsive. The Respondent did not answer at all. The complainant expects a full and complete answer.

- 11. Give a detailed statement of the facts as to how you argue that the noise pollution (music, honking of car horns aimed at the complainant when passing by her, dog barking at complainant) took place after May 01, 2020, Cease and Desist letter Mr. Egan received to include any facts and documents upon which you intend to rely upon in support of any defense.**

Answer: I have never once driven past the complainant and blown my horn. Objection as to the form of the question as it is unclear, vague and calls for a narrative answer.

Response is not justified. Response evades question. The complainant expects a full and complete answer without objection.

To rephrase: May 01, 2020 Respondent received a cease and desist for music, honking of car horns, then continued and the escalation with the addition of the dog barking. How do you argue noise pollution that the Respondent knew or should have known the noise pollution would cause harm. Therefore, the deliberate cause of harm was willful. How do you argue the facts and provide documents upon which the Respondent intends to rely upon in support of any defense.

- 13. Please describe in detail the circumstances under which your dog barks. Include, but are not limited to:**

- b. Frequency of dog barking?**

Answer: When stimulated by cats or squirrels.

Response evades question. The complainant expects a full and complete answer.

To rephrase: Does the dog bark, continuous; extended without breaks over a given period, repetitive/habitual; occurring regularly and frequently, impulsive to be extreme short bursts, excessive; more than occasional

c. Duration? Daily or Weekly basis?

Answer: The dog has never barked all day or all week.

Response evades question. The complainant expects a full and complete answer.

To rephrase:

- **Continuous barking for 15-20 minutes or more:** Even if the ordinance doesn't say "15 minutes," a sustained period of barking for this long would likely be considered disruptive by a "reasonable person" standard.
- **Intermittent barking for extended periods:** For example, barking for 5 minutes, stopping for 2 minutes, then barking for another 7 minutes, and repeating this pattern for an hour or more, especially if it happens multiple times a day or at inappropriate hours (nighttime, early morning).
- **Habitual barking at specific triggers:** A dog that barks for several minutes every time someone walks by, or every time a car passes, resulting in frequent, short bursts of barking that add up to a significant disturbance throughout the day.

17. What is your motivation for allowing your dog to bark? Please explain.

Answer: Objection. Vague and irrelevant.

Response evades question. Objection is not justified. The complainant expects a full and complete answer without objection.

The question is *not* irrelevant, the relevance to the complainant's claim of damages and respondent's state of mind, and the foreseeability of the accident related to the dog barking.

26. Do you dispute that the barking of your dog has caused a disturbance to Ms. Andrushko? If so, please state all the reasons for your denial?

Answer: Objection. Calls for speculation, is irrelevant and vague.

Response evades question. Object is not justified. The Complainant expects a full and complete answer without objection.

The question is *not* speculative, but rather something the respondent should know or be able to answer and seeks information from the client's knowledge and/or understanding.

The question is *not* irrelevant, the relevance to the Complainant's claim of damages and respondent's state of mind, and the foreseeability of the accident related to the dog barking.

27. Describe your understanding of local noise or nuisance ordinances related to dog barking.

Answer: Objection. More appropriately answered in a deposition, is irrelevant and vague.

Response evades question. Object is not justified. The Complainant expects a full and complete answer without objection.

The question is *not* irrelevant, the relevance to the Complainant's claim of damages and respondent's state of mind, and the foreseeability of the accident related to the dog barking.

The question is *not* vague; home owners are responsible for knowing and understanding ordinances and laws. Evergreen Park only has one ordinance, Sec. 4-5 Miscellaneous (d) "Bark, whine, or howl excessively".

This interrogatory seeks to determine Respondent's understanding of the Village of Evergreen Park dog barking ordinance, specifically regarding what constitutes a violation.

The compliant is asking about respondent's knowledge of the ordinance's provisions as they pertain to the Complainant's property and actions taken.

While depositions are a valuable discovery tool, it does not negate the obligation to answer proper interrogatories.

The Complainant expects a full and complete answer without objection.

Summary

The Complainant satisfied the requirements to attempt to resolve the issue without court intervention. (1) Police intervention, (2) respondent was served on June 23, 202 a cease and desist, (3) respondent was served on July 08, 2020 an informal complaint by the Illinois Pollution Board.

Respondent's answer is vague, evasive, and non-responsive. It fails to provide any specific facts as requested and merely offers a conclusory statement, which is insufficient under Fed. R. Civ. P. 33(b)(3) required by Rule 33(b)(4)). "Vague and irrelevant" on its own, without further explanation, is often considered a boilerplate objection and not sufficiently specific. This answer completely evades the substance of the interrogatory and prevents Complainant from understanding the factual basis of respondent's claim of negligence.

The lack of complete answers by the respondent is prejudicing the Complainant's ability to prepare her case.

The Complainant prays:

A request for sanctions against the Respondent, Thomas E Egan and attorney, David A Fewkes, Walsh, Fewkes & Sterba for their failure to comply.

The Complainant respectfully requests the Board grant the Complainant relief.

Respectfully Submitted

By: Anna Andrushko

Anna Andrushko

CERTIFICATE OF SERVICE

I, Anna Andrushko, do hereby certify that, on this July 3, 2025, I caused a copy of the foregoing document to be served on Walsh, Fewkes & Sterba, David A. Fewkes, 7270 W College Drive, Suite 101, Palos Heights, IL 60463, via email Dfewkes@wfstriallaw.com.