

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF BERRIEN

NEW PRODUCTS CORPORATION,
a Michigan corporation,

Plaintiff,

v

Hon. John M. Donahue

Case No. 11-0280-CH-D

HARBOR SHORES BHBT LAND
DEVELOPMENT, LLC, a Michigan
limited liability company, HARBOR
SHORES GOLF COURSE, LLC,
a Delaware limited liability company,
CITY OF BENTON HARBOR, a Michigan
CHARTER TOWNSHIP, a Michigan

charter township, WHIRLPOOL
CORPORATION, a Delaware corporation,
HORIZON BANK, a national banking

association, and MICHIGAN MAGNET
FUND E, LLC, a Michigan limited
liability company,

Defendants,

and

HARBOR SHORES BHBT LAND
DEVELOPMENT, LLC and HARBOR
SHORES GOLF COURSE, LLC,

Counter-Plaintiffs,

v

NEW PRODUCTS CORPORATION,

Counter-Defendant.

And

HARBOR SHORES BHBT LAND
DEVELOPMENT LLC,

Third Party-Plaintiff,

v.

LARRY ALLEN HEALD and HEIDI HEALD,

Third Party Defendants.

**NEW PRODUCTS COPRORATION'S
RESPONSE AND BRIEF IN
OPPOSITION TO DEFEDANTS
HARBOR SHORES BHBT LAND
DEVELOPMENT, LLC, ET AL'S
MOTION TO QUASH OR FOR
PROTECTIVE ORDER TO LIMIT NON-
PARTY DOCUMENT SUBPOENAS**

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**NEW PRODUCTS CORPORATION'S RESPONSE TO DEFENDANTS
HARBOR SHORES BHBT LAND DEVELOPMENT, LLC, HARBOR SHORES GOLF
COURSE, LLC, WHIRLPOOL CORPORATION, AND MICHIGAN MAGNET FUND E,
LLC'S MOTION TO QUASH OR FOR PROTECTIVE ORDER TO
LIMIT NON-PARTY DOCUMENT SUBPOENAS**

Plaintiff/Counter-Defendant New Products Corporation ("New Products"), through its attorneys, Demorest Law Firm, PLLC and Myers Nelson Dillon & Shierk, PLLC, states as follows for its Response to Defendants Harbor Shores BHBT Land

Development, LLC, Harbor Shores Golf Course, LLC,¹ Whirlpool Corporation, and Michigan Magnet Fund E, LLC's ("Moving Defendants") Motion to Quash or For Protective Order to Limit Non-Party Document Subpoenas ("Defendants' Motion"):

1. New Products admits that the case involves a multi-faceted property ownership and land use dispute, but denies the remaining allegations set forth in Paragraph 1. The Moving Defendants mischaracterize and over-simplify the issues in the case in an attempt to minimize New Products' claims and damages. They want to limit discovery to try to prevent New Products from proving its case, and to make it more difficult for New Products to defend against their Counterclaim.

New Products wants to get back possession of New Products' deeded property; recover damages caused by Defendants' trespass; and protect New Products' operations and jobs. Harbor Shores claims that they actually own the New Products' deeded property.

In the alternative, if the Court confirms New Products' ownership of the property, Harbor Shores filed a Counterclaim to recover from New Products **the cost** of the so-called "improvements" that Harbor Shores allegedly made to the disputed property. Harbor Shores also seeks the amount by which it has allegedly improved **the value** of the disputed property. Discovery about the design and construction of the Harbor Shores Golf Course and Harbor Shores Project is necessary to respond to this Counterclaim.

In addition to the cost or value of the "improvements," there are issues about whether Harbor Shores' actions on the property actually damaged New Products, rather

¹Defendants Harbor Shores BHBT Land Development, LLC and Harbor Shores Golf Course, LLC will be referred to collectively as "Harbor Shores."

than improving the property, including environmental issues, flooding issues, and land use regulations. These issues all require discovery into the design and construction of the Harbor Shores Golf Course and the Harbor Shores Project.²

The Moving Defendants provide very little actual analysis of the specific discovery sought by New Products, choosing instead to rely on broad pronouncements and platitudes. Their Motion and Brief appears to be a generic one that they have used for multiple cases. It has little relation to the specific issues in this case.

The Moving Defendants claim that this case is a dispute over title to a "single small parcel of land," but they ignore the fact that the land in dispute is part of a larger project, which affects New Products and its property in many ways. The New Products' deeded property includes what is now part of the 18th fairway of the Harbor Shores Golf Course, which is, in turn, part of the Harbor Shores Project. There are not many championship golf courses with only 17 holes.

Harbor Shores apparently deeded another part of the New Products property to the City of Benton Harbor for wetlands mitigation and Jean Klock Park mitigation. Discovery is necessary regarding the City of Benton Harbor's involvement in these projects, and how the construction of the mitigation areas has affected New Products' property.

Harbor Shores claims that the New Products' deeded property is located in Benton Township, Michigan. That is one of several issues to be litigated in this case. New Products believes that the property taken from New Products by Harbor Shores is

² Harbor Shores already interfered with New Products when its contractors severed a water main, disrupting production in New Products manufacturing facility. None of the involved parties would reimburse New Products for its damages.

actually located in the City of Benton Harbor, as a result of the *de jure* or *de facto* annexation of the property from the Township into the City. Harbor Shores claims that New Products somehow lost the property to a tax sale in the early 1970's, but that theory has numerous flaws, including the following: (a) New Products never received a tax bill from Benton Township; (b) the City of Benton Harbor assessed property taxes to New Products and its predecessor; and (c) New Products paid each and every property tax bill that it received from the City of Benton Harbor.

Harbor Shores was aware of New Products' claim of ownership of the property, but when their attempts to purchase the property from New Products failed, they just went ahead and physically took New Products' property for their golf course. Harbor Shores proceeded at its own risk because it had been warned by New Products that any entry onto New Products' property would be considered trespass.

2. New Products admits that it served the various third-party document subpoenas on the dates set forth in Paragraph 2. The recipients of the Subpoenas will be referred to as the "Recipients." Only Michael Redd & Associates has produced any documents in response to the Subpoenas.

3. New Products has no knowledge as to whether any of the Recipients actually contacted Defendant's counsel about the scope of the Subpoenas. With one exception, the Recipients did not contact New Products' counsel with any objections to the Subpoenas. Instead they contacted the attorneys who represent Harbor Shores and Whirlpool. Most of the Recipients are companies that depend on Harbor Shores and Whirlpool for their livelihoods. The only response received directly by New Products' attorneys is a letter from Berrien County's attorney to discuss the available

resources and what is required for the County to comply with the subpoena. New Products is attempting to set up a conference call or meeting with Berrien County to discuss these issues.

4. New Products denies that the Subpoenas are outside the scope of permissible discovery. To the contrary, each and every item listed in the Subpoenas seeks documents that are reasonably calculated to lead to the discovery of admissible evidence. Each item is discussed in detail in New Products' Brief.

Furthermore, the Moving Defendants have provided no evidence that any of the documents sought by New Products are "confidential." Indeed, the Harbor Shores Project includes various public funding and tax deferments or abatements from the City of Benton Harbor, the City of St. Joseph, and Benton Township. New Products needs extensive discovery in this case because so many of Harbor Shores' actions have been shrouded in secrecy, and Harbor Shores circumvented normal approval processes. The alleged confidentiality concerns are no reason to prevent discovery altogether, and only serve to perpetuate the secrecy by Harbor Shores.

Contrary to the Moving Defendants' claims, the contracts and relationships between the Recipients and Harbors Shores and the other Defendants are relevant. Those documents relate to the biases, financial interests, and credibility of the Recipients, who are performing, or have performed substantial work for the Defendants.

The Subpoenas also relate to the information that was provided to and received by Harbor Shores from the Recipients. This information is relevant to, among other things, the good faith or bad faith of Harbor Shores in taking New Product's property.

The Subpoenas also seek information about New Products' ownership of the

New Products' deeded property; possible contamination from other portions of the Harbor Shores Golf Course, including the nearby Aircraft Components Superfund site (vinyl chloride contamination of 14th hole of the golf course); and flood plain issues caused by Harbor Shores' construction work and filling of land; and other possible alternative designs that would have permitted construction of the Harbor Shores Golf Course without taking New Products' property.

5. New Products denies the allegations set forth in Paragraph 5. New Products has no interest in attempting to re-open any litigation concerning Jean Klock Park. This is nothing more than unfounded conjecture by the Moving Defendants. New Products was not a party to that litigation and only seeks documents and information that are relevant to the issues in the present lawsuit, which are distinctly different from the issues raised in the prior litigation by those that were trying to protect Jean Klock Park. New Products' discovery seeks information on how the Defendants' actions have affected New Products; information necessary for New Products to prosecute its claims; and information necessary to defend against Harbor Shores' Counterclaim. New Products, not the Defendants, should be allowed to determine what information is relevant to New Products' claims and defenses.

6. New Products denies the allegations set forth in Paragraph 6. The Moving Defendants have not provided any affidavit or other evidence from any of the Recipients as to what it would require for them to fully comply with the Subpoenas. The claim that it would "take the Recipients weeks of full-time, dedicated employees services to respond to the requests" is purely speculative, particularly in the 21st century, where most business records are digital. New Products could also review documents in

person or electronically and then designate the documents of which they need paper or electronic copies.

Furthermore, New Products submits that it would take the Recipients less time to produce all the documents regarding the Harbor Shores Golf Course and Harbor Shores Project, than it would take for the Recipients to review all of their documents and then segregate out those that deal specifically with the New Products Property or the 18th hole of the golf course. Furthermore, New Products should be permitted to review the documents to determine how they affect New Products' Complaint and its defense of Harbor Shores' Counter-Claim.

7. The requested documents can be provided electronically, to make copying unnecessary. Harbor Shores is simply trying to deter New Products from pursuing its claims.

8. The Subpoenas were timely served, but the Recipients' responses have now been delayed for about a month by this Motion, reducing the time that New Products has to complete its discovery in this case.

9. New Products denies the allegations set forth in Paragraph 9. As discussed below, each of the items sought in the Subpoenas is reasonably calculated to lead to discovery of admissible evidence in this case. It is apparent that the real purpose of this Motion is not to "protect" the Recipients. Rather, the purpose of the Motion is to attempt to prevent New Products from proving its case by limiting the discovery of documents and information that may be damaging to the Moving Defendants.

WHEREFORE, New Products requests the Court to:

- A. Deny the Motion;
- B. Compel the Recipients to immediately produce all documents requested in the Subpoenas, as written; and
- C. Award New Products its costs and attorneys' fees incurred in defending against this Motion.

Respectfully submitted,

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Dated: November 6, 2012

BRIEF IN SUPPORT OF
NEW PRODUCTS CORPORATION'S RESPONSE TO DEFENDANTS' MOTION TO
QUASH OR FOR PROTECTIVE ORDER TO LIMIT
NON-PARTY DOCUMENT SUBPOENAS

I. INTRODUCTION

Defendants Harbor Shores BHBT Land Development, LLC, Harbor Shores Golf Course, LLC, Whirlpool Corporation, and Michigan Magnet Fund E, LLC ("the Moving Defendants") have asked this Court to quash subpoenas sent to various third parties who have information likely to lead to relevant and admissible evidence in this case. The crux of Defendants' argument is that these subpoenas are overly broad and burdensome for the third parties. As discussed below, this is simply untrue.

The subpoenas were issued to third parties, so it is difficult to imagine how the Subpoenas could be oppressive or unduly burdensome to Defendants. Except for a letter from Berrien County, none of the Recipients have objected to New Products about the Subpoenas, nor expressed any concern about the cost or effort of complying with the Subpoenas. The Moving Defendants' claims about the burdens of complying with the Subpoenas are unsupported and purely speculative. Documents can be provided electronically. The Recipients don't need to "expend thousands and thousands of dollars in preparing and copying voluminous records ..."

This case involves many parties and issues, and the Recipients possess necessary information. New Products must be given an opportunity to take discovery to prove its claims. The real purpose of the Motion is to attempt to prevent New Products from discovering relevant information, or to deter New Products from pursuing its claims by making it more expensive for New Products to do so.

II. FACTUAL BACKGROUND

The Moving Defendants have provided a chart summarizing the items requested by New Products in the various Subpoenas, but have provided little analysis as to why New Products should not be permitted to discovery the requested documents.

New Products does not know what documents exist or what those documents contain until it has an opportunity to review the documents. The Moving Defendants seem to suggest that New Products should only be allowed to see documents that **deal only with** the property that is in dispute in this case (including part of the 18th fairway and some wetlands mitigation area). New Products should be able to review the documents to determine what is relevant to its claims or defenses.

Because this property is part of larger projects (Harbor Shores Golf Course and the Harbor Shores Project), many of the existing documents will involve the New Products' deeded property as part of the larger project. The Harbor Shores Golf Course and Project now surrounds the New Products property, and affect it in many ways.

It would take less time for the Recipients to produce all requested documents, than to go through their files and segregate out those documents that deal with the New Products' deeded property or the 18th hole of the Harbor Shores Golf Course. Furthermore, New Products needs an opportunity to review the documents itself, in order to assess the impact of Defendant's actions on New Products and its property.

In attached Exhibit 1, New Products provides its analysis regarding the specific requests identified by the Moving Defendants in Exhibit 1 to their Motion:

III. ARGUMENT

A. General Legal Standard

The Moving Defendants cite cases discussing the discretion of the Court to provide protection to a person subjected to allegedly improper discovery, but none of the Recipients have sought protection from this Court. The Moving Defendants have also not provided any Affidavit or other statement regarding the alleged burdens of complying with the Subpoenas. This Motion is not really about protecting the Recipients; it's about protecting the Moving Defendants from the disclosure of potentially damaging or embarrassing information and documents.

B. The Subpoenas are Relevant and Within the Scope of Permissible Discovery Under MCR 2.302

Michigan law permits broad discovery. Discovery is permitted regarding "any matter, not privileged, which is relevant to the subject matter involved in the pending action." MCR 2.302(B)(1). The discovery rules

should be construed in an effort to facilitate trial preparation and to further the ends of justice. Moreover, [the discovery process] should promote the discovery of the facts and circumstances of a controversy, rather than aid in their concealment.

Reed Dairy Farm v Consumers Power Co, 227 Mich App 614, 616 (1998) (citing *Domako v Rowe*, 438 Mich 347, 360 (1991)) (citations omitted).

In addition to Michigan's liberal rules of discovery, Michigan's definition of relevant evidence is also broad. MRE 401 defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the

evidence.” The relevance of the documents requested by New Products is discussed above.

C. The Subpoenas are not a Pretext to Re-Open the Jean Klock Park Litigation

Contrary to Defendants’ claim, New Products is not attempting to reopen prior litigation regarding Jean Klock Park, to which New Products was not a party. As discussed above, all of the information sought by New Products is relevant to the claims in this case.

Once again, the Moving Defendants mischaracterize Plaintiffs’ claims. In footnote 2, page 6, they claim that New Products is asking this Court to rule on whether the consent of the National Park Service was necessary to lease 22 acres of a public park to become part of a public golf course, and how the Harbor Shores Golf Course and development will impact Jean Klock Park. This assertion is a figment of the Moving Defendants’ imagination. No such claim is asserted in New Products’ original Complaint or its First Amended Complaint.

The Moving Defendants claim that New Products has “animus toward the Harbor Shores project” which is “hardly a secret.” If defending your own property against the predatory actions of someone who wants to take it without paying for it constitutes animus, then New Products acknowledges that it has animus.

D. The Subpoenas are not Unreasonable, Overly Burdensome, and Harassing

The Subpoenas are not unreasonable, overly burdensome, or harassing. The Moving Defendants do not provide any support for their conclusory statement that the Subpoenas issued by New Products are unreasonable, overly burdensome, or harassing.

The Moving Defendants have not provided any affidavit or other evidence from any of the Recipients as to what it would require for them to fully comply with the Subpoenas. The claim that it would “take the Recipients weeks of full-time, dedicated employees services to respond to the requests” is purely speculative, particularly in the 21st century, where most business records are digital. New Products can also review documents, in person or electronically, and then designate the documents of which they need paper or electronic copies.

E. The Court should Not Limit the Subpoenas under MCR 2.305(A) or MCR 2.302(C)

Again, the subpoenas are seeking relevant, discoverable information, and are not burdensome, oppressive, or irrelevant. The Moving Defendants have not attempted to explain why the information sought is not relevant or discoverable. Rather, they have simply listed the types of information sought by New Products, then unilaterally declared it irrelevant, unreasonable, overly burdensome, harassing and oppressive.

F. New Products Should Not be Required to Advance Funds to Recipients

The Moving Defendants suggest that New Products should be required to “prepay the Recipients for the reasonable costs incurred in connection with preparing and copying the requested documents.” However, they have not provided any evidence of what costs will be incurred, what amount of prepayment should be required, or how the costs will be calculated. There is nothing in the record to support their request.

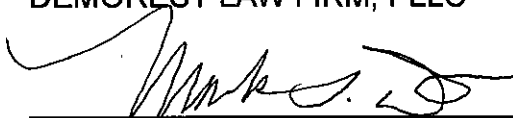
CONCLUSION

WHEREFORE, New Products requests the Court to:

- A. Deny the Motion;
- B. Compel the Recipients to immediately produce all documents requested in the Subpoenas, as written; and
- C. Award New Products its costs and attorneys' fees incurred in defending against this Motion.

Respectfully submitted,

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Dated: November 6, 2012

EXHIBIT 1

EXHIBIT 1 TO RESPONSE TO MOTION TO QUASH THIRD PARTY SUBPOENAS

<p>Base information and programming statements received by Recipient regarding the design or construction of the Harbor Shores Project and/or Harbor Shores Golf Course</p>	<p>This information is relevant to show, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith.</p>
<p>All Documents regarding the design or construction of the Harbor Shores Project and/or Harbor Shores Golf Course ...</p>	<p>This information is relevant to show, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property.</p>
<p>All background research performed by Recipient regarding Harbor Shores Project and/or Harbor Shores Golf Course, including field notes and photographs</p>	<p>The information will also help to identify the consultants' knowledge of the area and limiting development factors, including whether it was necessary for Harbor Shores to take New Products' property for the golf course.</p> <p>This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith.</p>
<p>All public relations or marketing documents prepared by or received by Recipient regarding the Harbor Shores Project and/or Harbor Shores Golf Course</p>	<p>This information is relevant to Harbor Shores' intent and the importance of New Products' property for the project.</p> <p>This information is also relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property;</p>

	Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property.
All Documents regarding all contracts or agreements between Recipient and any Harbor Shores Entity, at any time.	<p>This information is relevant to each Recipient's role in the project and their relationship to Harbor Shores (i.e., who is responsible for what). This information is also relevant to the Recipient's biases and credibility, many of whom depend on Harbor Shores and Whirlpool for their livelihood.</p> <p>This information is also relevant to the contractual responsibilities of each of the Recipients. In addition, it's relevant to whether their work has been completed.</p>
All Documents regarding all contracts or agreements between Recipient and Evergreen Development, at any time	<p>Evergreen Development was involved in the development of the Harbor Shores Golf Course and project generally. This information is relevant to each Recipient's role in the project and their relationship to Harbor Shores. This is relevant to the Recipient's biases and credibility.</p> <p>This information is also relevant to Defendants' plans for the New Products property.</p>
All Documents regarding all contracts or agreements between Recipient and the City of Benton Harbor, Whirlpool Corporation, Cornerstone Chamber of Commerce, Cornerstone Alliance, or Alliance for World Class Communities, at any time, regarding the Harbor Shores Project or Harbor Shores Golf Course	<p>These other entities were partners in or were otherwise involved in the development of the Harbor Shores Golf Course and project generally. They have also been involved in commissioning the consultants for additional assignments. This information is relevant to each Recipient's role in the project and their relationship to Harbor Shores. This is relevant to the Recipient's biases and credibility.</p>

<p>All Documents regarding all work performed by Recipient regarding the Harbor Shores Project or Harbor Shores Golf Course at any time, including all work product and invoices</p>	<p>This information is relevant to each Recipient's role in the project and their relationship to Harbor Shores, particularly since the Counterclaim seeks reimbursement from New Products for the cost of "improvements." It is also relevant to the effect of the "improvements" on New Products. It is also relevant to the Recipient's biases and credibility.</p>
<p>All Documents regarding the wetlands investigation, wetlands delineation, and wetlands mitigation plan for the Harbor Shores Project or Harbor Shores Golf Course ...</p>	<p>This information is relevant to how Harbor Shores has improved or damaged the New Products' deeded property, including the disputed property, manufacturing facility, and shipping warehouse. New Products' manufacturing facility is vulnerable to flooding from the Paw Paw River. New Products has taken steps over the years to protect itself from such flooding.</p> <p>New Products is concerned that the actions of Harbor Shores in filling former wetlands, creating new ones, and changing the contours of the land, has undermined New Products' efforts to prevent future flooding.</p>
<p>All surveys prepared (or legal descriptions) or received by Recipient at any time regarding property proposed, necessary or desired to be included in, or actually included in, the Harbor Shores Project or Harbor Shores Golf Course</p>	<p>This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith.</p> <p>This information is also relevant to Harbor Shores' changing of the contours of the land.</p> <p>This information is also needed since the parcel numbers used by Harbor Shores in its land acquisition (such as Parcel 23) are not defined by a plat or other recorded document.</p>

<p>All zoning maps and ordinances received by Recipient for its work regarding the Harbor Shores Project and/or Harbor Shores Golf Course</p>	<p>Some of the Recipients worked on these maps and ordinances. This information is relevant to, among other things, whether the property is in Benton Harbor or Benton Township; Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith. It is also relevant to whether Harbor Shores was allowed to evade restrictions on development or normal approval processes that would have been applied to other parties.</p>
<p>All chronological and historical Documents showing designation of lot/parcel numbers referenced through the planning process for the Harbor Shores project, including all correspondence, e-mails, notes, drafts and final maps, plans, and drawings</p>	<p>Harbor Shores describes the New Products' deeded property as "Parcel 23." That is an internal designation, not a parcel in a recorded plat. This information is relevant to, among other things, Harbor Shores' plan to take New Products' property from the start; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith.</p>
<p>All maps received by Recipient, showing some or all of the boundaries of the City of Benton Harbor and the Township of Benton (or Charter Township of Benton) dated from January, 1945 to date.</p>	<p>This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation. Some records have been lost or destroyed, so New Products needs to seek documents from multiple sources. The Recipients have compiled files that may include relevant documents.</p>

<p>All documents regarding the design or construction of bike paths, walking paths, cart paths, or sidewalks for the Harbor Shores Project or Harbor Shores Golf Course ...</p>	<p>This information is relevant to show, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith; Harbor Shores' damages or improvements to the New Products' deeded property; and additional encroachments on New Products' property. The plans will show a pattern of squeezing New Products, rather than protecting or buffering New Products from the impacts of the Harbor Shores Project.</p>
<p>All Documents regarding Jean Klock Park mitigation plan requirements, wetlands mitigation plan requirements, or the storm water management plans ...</p>	<p>This information is relevant to how Harbor Shores has improved or damaged the New Products' deeded property. New Products needs to examine the adequacy of the protection of New Products from flooding caused by Defendants' actions.</p>
<p>All title reports and copies of deeds and other recorded documents received by Wightman & Associates regarding its work on the Harbor Shores Project and/or Harbor Shores Golf Course.</p>	<p>This will provide the source for property information necessary for survey work b Wightman or others. This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith.</p>
<p>All reports prepared or received by Wightman & Associates regarding the property proposed, desired or needed to be included in the Harbor Shores Project and/or Harbor Shores Golf Course</p>	<p>This information is also relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith.</p>
<p>All Documents used or referred to for preparation of the parcel identification map(s).</p>	<p>This will show the development strategy and decision to take New Products' property in order to move forward on timetable. It will also help to determine which pieces of property are included in each of Harbor Shores' parcel numbers.</p>

	<p>Harbor Shores describes the New Products' deeded property as "Parcel 23." That is an internal designation, not a parcel in a recorded plat. This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith.</p>
<p>All variations and revisions of the parcel identification map, showing changes in the boundaries of parcels, numbering systems, and/or changes in ownership</p>	<p>Harbor Shores describes the New Products' deeded property as "Parcel 23." That is an internal designation, not a parcel in a recorded plat. The sequence/evolution of land assembly map will identify when and why the taking of New Products' property became necessary.</p> <p>This information is also relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith.</p>
<p>All tax boundary maps of the municipalities within Berrien County, dated from January 1, 1945 to date</p>	<p>This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation</p>
<p>All school district maps covering all of part of Berrien County, dated from January 1, 1945 to date</p>	<p>This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation</p>

<p>All Documents regarding New Products Corporation or property owned by it.</p>	<p>It is hard to imagine how the Moving Defendants can object to this request. New Products wants to know what information the Recipients have about New Products' Property.</p>
<p>All Documents regarding all work performed by Wightman & Associates for New Products Corporation at any time</p>	<p>It is hard to imagine how the Moving Defendants can object to this request. New Products wants to know what information the Recipients have about New Products' Property. It is also relevant to how previous assignments and records were incorporated into new work product, and the Recipients' knowledge of New Products' land holdings.</p>

<p>All Documents regarding the location of the City of Benton Harbor water and sewer lines</p>	<p>This information may be relevant to the location of the boundaries of the City of Benton Harbor and Benton Township.</p> <p>It is also relevant to how cutting New Products off from the Paw Paw River would affect New Products, including losing a potential source of non-contact cooling water, and a previous (and potential future) method of transportation of raw materials and products.</p>
<p>All concept or development plan alternatives for the Harbor Shores Project or Harbor Shores Golf Course provided to or reviewed by Recipient from other consultants.</p>	<p>This information is relevant to the options for development that did not take New Products' property, and the decision to take the property in spite of the alternatives.</p> <p>This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products property; Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property. Harbor Shores had other alternative plans that did not include New Products' property.</p>

<p>All in-house review, sketches or overlays created by Recipient or in response to other consultant's plans discussed as part of the final development plan process for the Harbor Shores Project or Harbor Shores Golf Course.</p>	<p>This information will show that no other options were as compelling as the taking of New Products' property.</p> <p>This information is also relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property.</p>
<p>All Documents regarding all easements sought or obtained by a Harbor Shores Entity for the Harbor Shores Project or Harbor Shores Golf Course.</p>	<p>This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property. May show future plans that may interfere with (squeeze) New Products' operations.</p>
<p>All Documents concerning any work performed by Recipient regarding any property owned by New Products Corporation (or claimed to be owned by New Products Corporation) ...</p>	<p>It is hard to imagine how the Moving Defendants can object to this request. New Products wants to know what information the Recipients have about New Products' Property.</p>
<p>All Documents regarding work performed by Recipient for Whirlpool, Wightman, or Abonmarche regarding the Harbor Shores Project or Harbor Shores Golf Course, including contracts, agreements, correspondence, emails and reports or plans</p>	<p>This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; Harbor Shores' good faith or bad faith; and Harbor Shores' damages or improvements to the New Products' deeded property.</p>
<p>All Documents related to the City of Benton Harbor master plan, zoning ordinances, ordinance amendments, changes to D3 zoning ordinances for all of Harbor Shores</p>	<p>This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation.</p>

	Additionally, the information is relevant to the strategy of isolating New Products' property.
All Documents regarding proposed or actual annexation of property from the Township of Benton into the City of Benton Harbor from January 1, 1945 to date	This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation
All documents regarding Modern Plastics Corporation or property owned by it	This is an adjacent piece of property. This information is relevant to, among other things, Harbor Shores' plan to take New Products' property; Harbor Shores' knowledge of the ownership and condition of the New Products' deeded property; and Harbor Shores' good faith or bad faith. It is also relevant to berm and flood protection, alternative electric power source, and access to Ox Creek.
All studies, site investigations or agency investigations regarding any environmental issues on the project site or within ½ mile of the project site; soil boring or reports or logs regarding Harbor Shores	This information is relevant to how Harbor Shores has improved or damaged the New Products' deeded property.
Inquiries into tax sale and public records	This information is related to the boundary between the City of Benton Harbor and Benton Township, and whether the New Products' deeded property is part of the City of Benton Harbor through <i>de jure</i> or <i>de facto</i> annexation This information is also relevant to whether the New Products' deeded property was taxed by the City of Benton Harbor or Benton Township; who was sent tax bills or other notices; what property was covered by the alleged tax sale; and the property taxes paid by New Products Corporation to the City of Benton Harbor.

New Products Corporation:HARBOR SHORES LAWSUIT:PLEADINGS:EXHIBIT 1 TO RESPONSE TO MOTION TO QUASH THIRD PARTY SUBPOENAS.docx

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF BERRIEN

NEW PRODUCTS CORPORATION,
a Michigan corporation,

Plaintiff,

v

Hon. John M. Donahue

Case No. 11-0280-CH-D

HARBOR SHORES BHBT LAND
DEVELOPMENT, LLC, a Michigan
limited liability company, HARBOR
SHORES GOLF COURSE, LLC,
a Delaware limited liability company,
CITY OF BENTON HARBOR, a Michigan
municipal corporation, BENTON
CHARTER TOWNSHIP, a Michigan
charter township, WHIRLPOOL
CORPORATION, a Delaware corporation,
HORIZON BANK, a national banking
association, and MICHIGAN MAGNET
FUND E, LLC, a Michigan limited
liability company,

Defendants,

and

HARBOR SHORES BHBT LAND
DEVELOPMENT, LLC and HARBOR
SHORES GOLF COURSE, LLC,

Counter-Plaintiffs,

v

NEW PRODUCTS CORPORATION,

Counter-Defendant.

And

HARBOR SHORES BHBT LAND
DEVELOPMENT LLC,

Third Party-Plaintiff,

v.

LARRY ALLEN HEALD and HEIDI HEALD,

Third Party Defendants.

CERTIFICATE OF SERVICE

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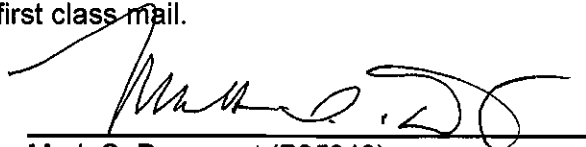
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CERTIFICATE OF SERVICE

Mark S. Demorest of Demorest Law Firm, PLLC, certifies that on November 6, 2012, a copy of New Products Corporation's Response and Brief in Opposition to Defendants Harbor Shores BHBT Land Development, LLC, et al's Motion to Quash or for Protective Order to Limit Non-Party Document Subpoenas, and this Certificate of Service were served upon all persons on the attached Service List by email and first class mail.



Mark S. Demorest (P35912)