

**CAUSE NO. 141-370402-25**

<b>WEINSTEIN MANAGEMENT CO.,</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>INC. AND WMCi DALLAS X, LLC,</b>	§	
	§	
<b>Plaintiffs,</b>	§	
	§	
<b>v.</b>	§	
	§	<b>TARRANT COUNTY, TEXAS</b>
<b>KATHRYN COPELAND,</b>	§	
	§	
<b>Defendant.</b>	§	<b>141<sup>st</sup> JUDICIAL DISTRICT</b>

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**PLAINTIFFS' MOTION FOR PROTECTIVE ORDER  
REGARDING DEFENDANT'S WRITTEN DISCOVERY**

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TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Weinstein Management Co., Inc. and WMCi Dallas X, LLC (hereinafter "Plaintiffs") and makes and files this, their Motion for Protective Order Regarding Defendant's Written Discovery, and in support thereof would respectfully show unto the Court as follows:

**I.**

**FACTUAL AND PROCEDURAL BACKGROUND**

***Factual Background***

Plaintiffs are the owner and operator of an apartment complex in Fort Worth, Texas called The Bowery at Southside. Defendant is a tenant at The Bowery (until her lease expires October 26, 2025), who contends that she has suffered various injuries and damages in relation to organic growth (which she contends constitutes "toxic" mold) existing in her apartment.

Plaintiffs contend that Defendant has exacerbated and/or contributed to any purported organic growth condition existing in her apartment, and that her failure to mitigate her damages

and/or interference with remediation and/or repair efforts prevented Plaintiffs from being able to promptly remediate/repair the apartment.

On or about July 14, 2025, Defendant vacated her apartment. She was lodged temporarily at hotels (paid for by Plaintiffs) from July 14, 2025 to September 10, 2025, and again from September 19, 2025 through the date of filing of this motion. In the early part of July 2025, Defendant began to engage in conduct which prevented the remediation and repair in her apartment.

On September 11, 2025 and/or September 12, 2025, Defendant voluntarily returned to her apartment and was there at various times through September 21, 2025 at 8:10 p.m. Plaintiffs had secured a hotel for Defendant during this time, but Defendant refused to stay at the that particular hotel (the Holiday Inn Express) and instead return to her apartment.

Beginning on September 12, 2025, Defendant was directed to not turn on the air conditioner and to not disturb the containment area (remediation efforts had started in August ). Despite these directives, when Plaintiffs were able to regain access to the apartment on September 22, 2025, it was determined that the HVAC system was “on”, and had subsequently “frozen” and then “defrosted”, resulting in water intrusion. This caused significant and new damage to the living room, kitchen, and HVAC hallway.

### ***Procedural Background***

Plaintiffs are seeking injunctive relief on their breach of contract claim (as to Defendant’s breach of her lease by failing to provide access to the unit for repairs, failing to cooperate in said repairs, and failure to pay rent without excuse in August, September, and October), tortious interference with a contract (as to Defendant’s interference with contracts for services between Plaintiffs and their vendors), and for declaratory relief (as to obligations under the lease).

Defendant, in turn filed her Original Answer, Special Exceptions, Affirmative Defenses, and Counter-Claims on September 25, 2025. Specifically as to her counterclaims, she alleges fraudulent inducement, violations of Deceptive Trade Practices Act, breach of contract, constructive eviction/breach of an implied warranty of habitability, negligence per se (as to remediation and compliance with Texas Department of Licensing and Regulation), trespass to chattel/conversion, declaratory judgment, and inapplicable provisions of the Texas Property Code<sup>1</sup>, American with Disabilities Act, and Fair Housing Act<sup>2</sup>. Plaintiffs' deadline to file their Answers to Defendant's Counterclaims is October 20, 2025.

On September 22, 2025, Defendant prematurely "served" the following discovery on Plaintiffs:

- Defendant's Rule 194 Request for Initial Disclosures;
- Defendant's First Set of Requests for Admissions, Interrogatories, and Requests for Production.

On October 2, 2025, the Court held a hearing on Plaintiffs' Application for Temporary Restraining Order. The Court entered a Temporary Restraining Order on October 2, 2025, and Plaintiffs have subsequently paid the required cash bond. A hearing is scheduled for October 16, 2025, on Plaintiffs' request for a Temporary Injunction.

Defendant's attempt to serve discovery on Plaintiffs on September 22, 2025, was premature and improper. A party cannot serve discovery on another party until after the other party's initial disclosures are due. Initial disclosures are not due until 30 days after the filing of the first answer or general appearance. Tex. R. Civ. P. 192.2; Tex. R. Civ. P. 194.2. Because this discovery was

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<sup>1</sup> Tex. Prop. Code §§ 92.052 (duty to repair/remedy), 92.056 (liability/remedies for failure to repair), 92.331 (retaliation).

<sup>2</sup> 42 U.S.C. § 3604(f)(3)(B)(refusal to make reasonable accommodations in rules, policies, practices, or services); 42 U.S.C. § 3617(interference, coercions, or intimidation).

served prematurely and untimely, Plaintiffs seek protection of the Court from answering or responding to Defendant's discovery requests, until such requests (as to Requests for Admissions, Interrogatories, and Requests for Production) are appropriately/timely served, on or after the due date for the parties' mandatory disclosure responses.

Plaintiffs will timely make the mandatory disclosure responses on the date same are due, pursuant to the Texas Rules of Civil Procedure, and presumes Defendant will do the same. Thereafter, all parties can engage in exchange of written discovery.

## **II.**

### **APPLICABLE LAW**

#### ***Scope of Discovery Generally***

Appropriate parameters and limits to discovery are set out in Tex. R. Civ. P. 192, 193, 194, 196, 197 and 198 which require that discovery sought be relevant and/or calculated to lead to the discovery of admissible evidence, be specific, be relegated to non-privileged matters and not be unduly burdensome or used to harass, annoy or invade personal, constitutional and/or property rights.

#### ***Timing of Discovery***

Pursuant to Rule 192.2(c)(1), a party cannot serve discovery on another party until after the other party's initial disclosures are due.

Tex. R. Civ. P. 194.2 provides that a party must, without awaiting a discovery request, to provide the parties information/material described in 194.2, 194.3, and 194.4.

### ***192.2 Timing and Sequence of Discovery.***

#### **a. Timing.**

1. In a suit not governed by the Family Code, unless otherwise agreed to by the parties or ordered by the court, a party cannot serve discovery on another party until after the other party's initial disclosures are due.
2. In a suit governed by the Family Code, a party may serve discovery with the initial pleading.

- b. Sequence.** The permissible forms of discovery may be combined in the same document and may be taken in any order or sequence.

### ***194.2 Duty to Disclose***

- a. Time for Initial Disclosures.** A party must make the initial disclosures within 30 days after the filing of the first answer or general appearance unless a different time is set by the parties' agreement or court order. A party that is first served or otherwise joined after the filing of the first answer or general appearance must make the initial disclosures within 30 days after being served or joined, unless a different time is set by the parties' agreement or court order.
- b. Content.** Without awaiting a discovery request, a party must provide to the other parties:
1. the correct names of the parties to the lawsuit;
  2. the name, address, and telephone number of any potential parties;
  3. the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
  4. the amount and any method of calculating economic damages;
  5. the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
  6. a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment;

7. any indemnity and insuring agreements described in Rule 192.3(f);
8. any settlement agreements described in Rule 192.3(g);
9. any witness statements described in Rule 192.3(h);
10. in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;
11. in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party; and
12. the name, address, and telephone number of any person who may be designated as a responsible third party.

***Relief Pursuant to Texas Rule of Civil Procedure 192.6***

Texas Rules of Civil Procedure 192.6 provides the mechanism pursuant to which a party can be protected from being the target of unnecessary, burdensome, expensive, harrassive discovery and/or discovery which requests information/documents which are privileged in nature. This rule provides that a person need not comply with a discovery request for which a Protective Order is sought pending a ruling whether it is unreasonable under the circumstances to do so before obtaining a ruling. Specifically, the Rule provides as follows:

- (a) Motion. A person from whom discovery is sought, and any other person affected by the discovery request, may move within the time permitted for response to the discovery request for an order protecting that person from the discovery sought. A person should not move for protection when an objection to written discovery or an assertion of privilege is appropriate, but a motion does not waive the objection or assertion of privilege. If a person seeks protection regarding the time or place of discovery, the person must state a reasonable time and place for discovery with which the person will comply. A person must comply with a request to the extent protection is not sought unless it is unreasonable under the circumstances to do so before obtaining a ruling on the motion.
- (b) Order. To protect the movant from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights, the court may make any order in the interest of justice and may – among other things – order that:

- 1) the requested discovery not be sought in whole or in part;
- 2) the extent or subject matter of discovery be limited;
- 3) the discovery not be undertaken at the time or place specified;
- 4) discovery be undertaken only by such method or upon such terms and conditions or at the time and place directed by the court;
- 5) the results of the discovery be sealed or otherwise protected, subject to the provisions of rule 76a.

### **III.**

#### **MOTION FOR PROTECTIVE ORDER**

Defendant's discovery requests were served prematurely. Per the applicable Texas Rules of Civil Procedure, Defendant may not serve discovery until after the due date for initial (mandatory) disclosures. Being forced to answer the discovery prematurely is in contradiction to the spirit and intent of the Texas Rules of Civil Procedure is an attempt to circumvent the timing parameters provided by the Rules, and is improper and harrassive.

Accordingly, Plaintiffs seek a Protective Order from the Court pursuant to Tex. R. Civ. P. 192.6, as to Defendant's written discovery requests served September 22, 2025 (and any subsequently served written discovery requests made before the deadline to do so) confirming that Plaintiffs are not required to serve their Objections and Responses/Answers to the written discovery.

### **IV.**

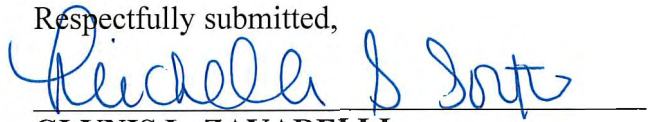
#### **CONCLUSION**

Plaintiffs do not seek to unnecessarily inhibit the discovery process, but seek to have discovery conducted in a manner that is consistent with the Texas Rules of Civil Procedure, and which does not require Plaintiffs to expend resources of time and money answering and/or

responding to discovery requests, when same was sent at a time prohibited by the Texas Rules of Civil Procedure. Plaintiffs seek protection from the discovery already served by Defendant, as well as any other discovery served prior to the due date for the parties' initial disclosures.

WHEREFORE PREMISES CONSIDERED, Plaintiffs request that a Protective Order be entered, and for such other and further relief, at law and in equity, both general and specific, to which the Plaintiffs may be justly entitled.

Respectfully submitted,



**GLYNIS L. ZAVARELLI**

State Bar No. 00788743

Email: [gzavarelli@wandzlaw.com](mailto:gzavarelli@wandzlaw.com)

**MICHELLE S. SORTOR**

State Bar No. 24056336

Email: [msortor@wandzlaw.com](mailto:msortor@wandzlaw.com)

**WENTZ & ZAVARELLI, L.L.P.**

3120 Sabre Drive, Suite 170

Southlake, Texas 76092

Telephone (469) 665-9100

Facsimile (469) 665-9106

**ATTORNEY FOR PLAINTIFFS**



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served on counsel of record this **10<sup>h</sup> day of October, 2025**, in accordance with the Texas Rules of Civil Procedure.

**Via Electronic Service**

Kathryn Copeland

  
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**MICHELLE S. SORTOR**

### **Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Filing Code Description: Motion (No Fee)

Filing Description: Plaintiffs' Motion for Protective Order Regarding Defendant's Written Discovery

Status as of 10/10/2025 1:15 PM CST

#### **Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Glynis L.Zavarelli		gzavarelli@wandzlaw.com	10/10/2025 11:48:18 AM	SENT
Michelle Sortor		msortor@wandzlaw.com	10/10/2025 11:48:18 AM	SENT
Kathryn Copeland		kcopelandlaw@gmail.com	10/10/2025 11:48:18 AM	SENT
Courtney Cotten		ccotten@wandzlaw.com	10/10/2025 11:48:18 AM	SENT
Rebecca Young		ryoung@wandzlaw.com	10/10/2025 11:48:18 AM	SENT
Krystina Hickey		khickey@wandzlaw.com	10/10/2025 11:48:18 AM	SENT
Kathryn Copeland		k.m.copeland@tcu.edu	10/10/2025 11:48:18 AM	SENT
Aayush Dhurka		adhurka@wandzlaw.com	10/10/2025 11:48:18 AM	SENT