

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TEAM SCHIERL COMPANIES and
HEARTLAND FARMS, INC., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

ASPIRUS, INC. and ASPIRUS NETWORK,
INC.,

Defendants.

OPINION and ORDER

22-cv-580-jdp

This is an antitrust case in which the plaintiffs allege that defendants are unreasonably restraining the markets for medical care in north-central Wisconsin. Defendants object to two rulings in Magistrate Judge Boor's December 11, 2024 decision on defendants' motion to compel. For the reasons below, the court will overrule both objections.

ANALYSIS

Defendants contend that the magistrate judge erred by declining to compel plaintiffs to comply with Interrogatory Nos. 2 and 4 and Request for Admission Nos. 1–145. The court may overrule a discovery order of the magistrate judge if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a).

A. Interrogatories

Defendants seek to compel responses to two interrogatories:

Interrogatory No. 2

Describe any financial, business, or personal relationship between
(a) any Attorney or law firm representing Plaintiffs in this Action,

and (b) any Person associated with Arnold Ventures or any other entity that has provided (or will provide) funding for this Action.

Interrogatory No. 4

Identify all sources of funding Plaintiffs and/or class counsel have secured or intend to secure to pursue this Action, aside from any funding provided by Plaintiffs themselves.

Dkt. 119-1.

Defendants say that both interrogatories are directed at information relevant to potential conflicts of interests affecting class counsel. Arnold Ventures is a nonprofit organization that has provided a grant to Fairmark Partners LLP, which is one of the law firms representing plaintiffs. This raises a potential conflict, defendants say, because Arnold Ventures has its own agenda that may not be in the best interest of the class. Defendants cite an article in the *Wall Street Journal*, which summarizes a statement from Fairmark that Ventures' "backing is key to a targeted effort to reshape hospital markets through the courts." Dkt. 147, at 7 n.1 (citing Melanie Evans, *The Billionaire Funding a Battle Against Hospital Monopolies*, Wall St. J. (June 13, 2022)). So defendants want to know "whether there are any other entanglements with Ventures and whether any other additional sources of funding exist."

The magistrate judge was not persuaded that discovery on these issues was likely to lead to relevant evidence about the merits or class certification. This judge is not persuaded either. Defendants do not cite a single case in which a court ordered the disclosure of the type of evidence they are seeking. They contend that the evidence could show that class counsel has a conflict of interest, but they again cite no cases in which a court denied class certification because of a funding source for the plaintiffs. As the magistrate judge pointed out, defendants already have the funding agreement between Fairmark and Arnold Ventures, and it states that

Ventures cannot have “any control or input over the litigation decisions” for this case. Dkt. 136-1, at 10. The court will overrule this objection.

B. Requests for admission

Defendants seek to compel plaintiffs to answer 145 requests for admission related to plaintiffs’ definition of the geographic and product markets. Dkt. 119–13. The magistrate judge denied this aspect of the motion, reasoning that the parties had agreed to only 30 requests and that defendants’ requests were premature because market definitions are based on expert testimony, but expert reports are not due until March.

Both reasons are sound. Defendants do not even try to justify expanding by nearly five times the limits on requests for admission. Defendants are essentially trying to elicit an early expert report. Defendants say that they need the market definitions to prepare their own expert reports, but they cite no authority for the view that they are entitled to “preview” expert opinions on market definitions before disclosures are due, and they identify no specific prejudice that they will suffer if they have to wait.

The court will overrule this objection as well.

ORDER

IT IS ORDERED that defendants’ objections to Magistrate Judge Boor’s December 11, 2024 decision, Dkt. 146, are OVERRULED.

Entered February 14, 2025.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge