



comply with the December 29, 2020 Order. The Wastetran Defendants and Defendant Bessemer are thus held in contempt of Court.

The Court declines to issue contempt findings and sanctions against Defendant Ernest Fisco at this time. Defendant Fisco was dismissed from the proceedings. Although Plaintiff cites to *State ex rel. DeWine v. C&D Disposal Technologies* for the proposition that a non-party can be held in contempt of a court order, this Court finds the facts of C&D Disposal Technologies are distinguishable to this matter. 2016-Ohio-476, 58 N.E.3d 614 (7<sup>th</sup> Dist.). Moreover, although *C&D Disposal Technologies* holds that a court may find a non-party in contempt of a court order; however finding a non-party in contempt is within the court's discretion.

**THEREFORE, the Court GRANTS the State of Ohio's Written Charges in Contempt and Motion to Show Cause, and ORDERS the following:**

A. Defendants Wastetran LLC (formerly known as "Wastetran Ltd."), Barton Carmichael, Lisa Carmichael, Haul-Away Containers Inc., and Bigdumpster.com LLC are found in contempt and hereby ORDERED to:

1. Pay a fine in the amount of Two Hundred and Fifty Dollars (\$250.00) for each day of continuing noncompliance, beginning on the date of this Order, to coerce compliance with the terms of the Wastetran Consent Order entered on July 10, 2020;
2. Come into full compliance with all terms and conditions of this Court's Wastetran Consent Order;
3. Immediately remove all solid waste and construction and demolition debris from the property located at 7415 Bessemer Avenue in Cleveland, Cuyahoga County, Ohio;
4. Comply completely with all applicable state and local laws, rules, and/or ordinances;
5. Pay all court costs associated with this case; and

6. Pay all stipulated penalties that are due and owing under the Wastetran Consent Order within 30 days of the entry of this Order.

B. Defendant 7500 Bessemer Corp. is found to be in contempt and hereby ORDERED to:

1. Pay a fine in the amount of Two Hundred and Fifty Dollars (\$250.00) for each day of continuing noncompliance, beginning on the date of this Order, to coerce compliance with the terms of the Bessemer Consent Order entered on December 29, 2020;
2. Come into full compliance with all terms and conditions of the Bessemer Consent Order;
3. Immediately remove all solid waste and construction and demolition debris from the property located at 7415 Bessemer Avenue in Cleveland, Cuyahoga County, Ohio;
4. Comply completely with all applicable state and local laws, rules, and/or ordinances;
5. Pay all court costs associated with this case; and
6. Pay all stipulated penalties that are due and owing under the Bessemer Consent Order within 30 days of the entry of this order.

C. The Court ORDERS the following purge requirements:

1. All Defendants listed in this order may purge contempt by removing all solid waste and construction and demolition debris from the Site by September 9, 2021.

**IT IS SO ORDERED.**

8 | 23 | 21  
DATE

  
MAGISTRATE AMY R. JACKSON

**NOTICE OF OPPORTUNITY TO OBJECT:**

A party shall not assign error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designation as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

CERTIFICATE OF SERVICE

A copy of the foregoing has been sent by Ordinary U.S. Mail or email by the Clerk of Courts to the following parties or their counsel of record:

Alan Vender  
30 EAST BROAD STREET, 25TH FLOOR  
Columbus, Ohio 43215  
ALLEN.VENDER@OHIOATTORNEYGENERAL.GOV

Erin McDevitt-Franz  
812 Huron Rd.  
Cleveland, Ohio 44115  
EFRANTZ@MDLLP.NET

Michael Franz  
200 PUBLIC SQUARE SUITE 3000  
Cleveland, Ohio 44114  
MJFRANTZJR@FRANTZWARD.COM

Barton Carmichael  
4010 Brush Road  
Richfield, Ohio 44286

Lisa Carmichael  
4010 Brush Road  
Richfield, Ohio 44286

Haul Away Containers Inc. and BigDumpster.com LLC  
4010 Brush Road  
Richfield, Ohio 44286

Bwayma  
CLERK OF COURTS

DATE: 8-25-2021