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### TrackRacket allowed NJMP depositions

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By Jason Laday

[jladay@sjnewsco.com](mailto:jladay@sjnewsco.com)

BRIDGETON - A Superior Court judge in Gloucester County last Friday ordered the New Jersey Motorsports Park to provide depositions from up to four representatives, including the park's owner, in a pending lawsuit brought on by a local anti-noise group.

In one of two rulings on Dec. 3, Superior Court Judge Anne McDonnell compelled the motorsports park to allow TrackRacket to depose owner Lee Brahin, spokesman Don Fauerbach and two as of yet unidentified corporate representatives within 30 days of the ruling, according to civil court officials in Woodbury.

However, whether or not TrackRacket's attorney, Richard Gallucci, of Philadelphia, will be allowed to question the park's management on issues other than noise - such as the track's finances - is still a point of contention between the two sides.

"I wanted there to be an understanding that questions that are asked are relevant to this case - the issues are sound and noise," said NJMP attorney Jeff DiLazzer, from Vineland, of Thursday. "So I filed a cross motion barring questions referring to anything other than noise and operations.

"No financial records, tax returns, no contracts."

According to officials at Gloucester County Court, Judge McDonnell granted the protective cross motion last Friday.

However, Gallucci in an e-mail Wednesday, stated he can still question NJMP officials about finances, but TrackRacket must first present evidence that the track is a nuisance to those around it.

"The court reserved its decision in allowing TrackRacket to discover the financial condition of the NJMP pending TrackRacket's showing of its nuisance claims, after which the court will re-examine this issue," said Gallucci in his e-mail.

"This is a significant advancement in the case, as the NJMP has made all efforts to avoid relevant discovery in TrackRacket's case."

In response, DiLazzer stated Thursday the judge would rule whether the NJMP is a nuisance in her final ruling.

"They would have to prove that in court," he said. "Because there's no final judgment yet, they can't go into the financial books.

"(But, even if the park is ruled a nuisance), they would only get to open the track's finances if they were seeking putative damages."

TrackRacket's lawsuit, filed on Dec. 23, 2009, seeks compensatory damages against the park for any drop in property values for those living near the park.

"Let's say you sue me, and you win," said DiLazzero. "If I turn around and refuse to pay, then, in that instance, you would be entitled to the financial stuff."

Gallucci did not respond to a request for comment Thursday.

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