

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ERIC E. HOYLE,

Plaintiff,

-vs-

08-CV-347-JTC

FREDERICK DIAMOND, et al.,

Defendants.

On May 6, 2010, plaintiff filed a motion to compel discovery (Item 50). During a telephone conference on May 10, 2010, defense counsel agreed to provide the requested documents within 30 days. Plaintiff's counsel advised the court that he would withdraw the motion if and when he received the documents. To date, plaintiff has neither withdrawn the motion nor advised the court of the status of the document requests. Plaintiff's counsel shall promptly advise the court whether he intends to withdraw the motion to compel, or whether he seeks a response to the motion from defense counsel.

On May 20, 2010, defendants filed a substitution of counsel (Item 53). On August 19, 2010, defendants filed a cross-motion to compel discovery (Item 55). Specifically, defendants seek complete responses to Interrogatories 1, 2, 5, 6, and 7 of Defendants' First Set of Interrogatories dated September 10, 2009; production of certain documents in Defendants' Notice to Produce dated September 10, 2009; sound recordings of telephonic conversations made in the weeks following plaintiff's departure from the Most Holy Family Monastery among plaintiff, defendants, Joseph Myers, and other unknown persons; transcriptions of conversations between plaintiff, Joseph Myers, and Michael

Lipscomb; and a privilege log for documents withheld from production on the basis of privilege.

The parties are directed to confer in a further attempt to resolve this discovery dispute. Additionally, plaintiff's counsel is directed to advise the court whether he intends to withdraw the May 2010 motion to compel (Item 50). Plaintiff is directed to file a response to the motion to compel (Item 55) on or before October 15, 2010. Thereafter, defendants may file a reply, if desired, on or before October 25, 2010. Plaintiff's counsel is directed to prepare and serve a privilege log as part of the response to the motion to compel for all documents which have been withheld on the basis of privilege in accordance with Fed. R. Civ. P. 26(b)(5)(A).

Discovery was to have been completed by November 10, 2010. Given the current dispute, this deadline may not be met. There is a telephone conference scheduled for November 15, 2010 at which time the parties will report the progress of discovery and establish an amended schedule for the completion of discovery if necessary.

So ordered.

\s\ John T. Curtin
JOHN T. CURTIN
United States District Judge

Dated: 9/30/2010
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