

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ERIC E. HOYLE,

Plaintiff,

-vs-

08-CV-347-JTC

FREDERICK DIMOND, et al.,

Defendants.

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Defendants have filed a motion to compel discovery (Item 64). During the course of plaintiff's deposition on February 8, 2011, defense counsel requested certain documents and restated his demands for missing documents. Specifically, defendants seek plaintiff's unredacted journal, notes detailing "unpleasant events" at the Most Holy Family Monastery ("MHFM"), copies of communications to any defendant made at plaintiff's behest, a fax sent by plaintiff to law enforcement authorities, electronically saved versions of the MHFM website presently in plaintiff's possession, and plaintiff's complete tax returns from 2005 to the present. In response to the motion, plaintiff's counsel stated in a declaration (Item 66) that some of the requested items have now been produced, including the notes, the fax, and the versions of the MHFM website. Counsel states that plaintiff "does not possess copies of any communications by a third party to any defendant made at his behest." *Id.*, ¶ 4.

The two remaining issues relate to plaintiff's journal and his tax returns. Plaintiff has agreed to produce the journal to the court for an *in camera* review. Accordingly, plaintiff shall provide the journal to the court on or before April 29, 2011. Additionally, plaintiff has provided partial tax returns for the years in question so that defendants could determine

the tax treatment of plaintiff's monetary contributions to MHFM. Defendants seek the complete returns to establish plaintiff's "donative intent."

A party seeking to compel disclosure of tax returns must demonstrate (1) that the requested tax information is relevant to the subject matter of the action; and (2) that there is a compelling need for this information "because the information contained therein is not otherwise readily obtainable." See *Comprehensive Habilitation Servs., Inc. v. Commerce Funding Corp.*, 240 F.R.D. 78, 84 (S.D.N.Y. 2006) (quoting *Trudeau v. N.Y. State Consumer Prot. Bd.*, 237 F.R.D. 325, 331 n.5 (N.D.N.Y. 2006). "Thus, a more stringent standard for discovery of tax returns applies than the general standard of relevance for discovery." *Sadofsky v. Fiesta Prods., LLC*, 252 F.R.D. 143, 150 (E.D.N.Y. 2008) (internal quotations omitted).

As plaintiff has provided those portions of the tax returns containing the information sought by defendants, it would seem, at this time, that defendants have failed to satisfy the second prong of the test. If defendants seek to further explain their compelling need for the full tax return, the court will conduct a telephone conference on Wednesday, May 18, 2011 at 2:00 pm to resolve any outstanding discovery issues and to set a date for the completion of discovery.

So ordered.

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

Dated: 4/18 , 2011  
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