

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RONALD BERT DE CLUE

PLAINTIFF

v.

CASE NO. 4:09CV00782-BSM

KELLOGG COMPANY

DEFENDANT

ORDER

Plaintiff Ronald Bert de Clue moves to compel defendant Kellogg Company (“Kellogg”) to provide certain cellular telephone records of David Bryant and Jerry Hicks pursuant to his Requests for Production, Nos. 31 and 32. [Doc. No. 42]. Kellogg objects, asserting that it has produced all of the records that are within its power to produce. [Doc. No. 47].

As of this date, all requested records have been produced, although there appears to be an issue with the completeness of the records of Jerry Hicks’s cellular phone calls from October 18, 2008, through October 31, 2008. Kellogg represents that it has produced all records that Sprint, the cellular service provider, has turned over to it. Counsel for Kellogg has represented that she will inquire about the incomplete records and will advise plaintiff’s counsel accordingly.

It appears, based on its representations, that Kellogg has made a good faith attempt to obtain the cellular phone records from Sprint but that Sprint may have failed to produce complete records. For this reason, de Clue’s motion to compel [Doc. No. 42] is denied. Kellogg, however, is directed to attempt to obtain the complete records and to either produce

those records within twenty days from the date of this order, or provide an affidavit from either a representative of Sprint or defense counsel explaining why the complete records have not or cannot be produced.

IT IS SO ORDERED this 9th day of December, 2010.


UNITED STATES DISTRICT JUDGE