

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

DENNIS MACKLIN

PLAINTIFF

v.

Case No. 4:11-cv-00900-KGB

FMC TRANSPORT, INC.

DEFENDANT

ORDER

Before the Court is plaintiff Dennis Macklin's motion to compel (Dkt. No. 68). Mr. Macklin requests that the Court direct defendant FMC Transport, Inc., to produce "complete" responses to interrogatory numbers 4, 6, 12, and 13; request for production of documents numbers 8, 11, 12, 15, 16, and 18; and a supplemental request for production of documents.

The Court denies Mr. Macklin's motion to compel for the following reasons. First, Mr. Macklin's motion is untimely. The Court's First Amended Final Scheduling Order states,

Discovery should be completed no later than **September 2, 2014**. The parties may conduct discovery beyond this date, if all parties are in agreement to do so. The Court, however, will not resolve any disputes in the course of this extended discovery. All discovery requests and motions must be filed sufficiently in advance of the discovery deadline set forth in this Order to allow for a timely response. . . .

(Dkt. No. 47). Although the Court subsequently gave the parties until September 30, 2014, to file "all motions, except motions *in limine*" (Dkt. No. 62), Mr. Macklin did not file his motion to compel until October 7, 2014. Further, based on the information before this Court, Mr. Macklin's discovery disputes are not new, as they arose before the end of the discovery period.

Second, except as to the supplemental request for production of documents, Mr. Macklin makes no arguments as to why FMC Transport's responses or objections to the specific interrogatories and requests for production are insufficient or improper. The Court has reviewed the requests and FMC Transport's objections and responses. The basis for Mr. Macklin's motion

to compel regarding these interrogatories and requests is not readily apparent to the Court, and without more from Mr. Macklin the Court is not inclined to speculate as to why Mr. Macklin finds the objections and responses deficient. As for the supplemental request for production of documents, Mr. Macklin argues that FMC Transport never responded, but FMC Transport provides evidence that it did respond (Dkt. No. 71-4).

For these reasons, the Court denies without prejudice Mr. Macklin's motion to compel. Further, because the basis for Mr. Macklin's motion to compel is not readily apparent from the face of the motion, the Court declines to grant Mr. Macklin a hearing on his motion to compel. Granting a hearing based on Mr. Macklin's motion to compel would deny FMC Transport the opportunity to review and respond meaningfully to any arguments Mr. Macklin would make at the hearing. Pursuant to this Court's prior order, Mr. Macklin has ten days to respond to FMC Transport's pending motion for summary judgment.

SO ORDERED this the 28th day of October, 2014.



KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE