

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

KYLE SMITH

PLAINTIFF

v.

NO. 4:12CV00212 JLH

PORTFOLIO RECOVERY ASSOCIATES, LLC

DEFENDANTS

ORDER

Kyle Smith has filed a motion to compel in which he argues that Portfolio Recovery Associates, LLC, has failed to provide complete disclosures as required by Rule 26(a)(1) of the Federal Rules of Civil Procedure.

Local Rule 7.2(g) provides:

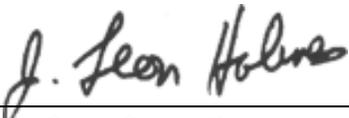
All motions to compel discovery and all other discovery-enforcement motions and all motions for protective orders shall contain a statement by the moving party that the parties have conferred in good faith on the specific issue or issues in dispute and that they are not able to resolve their disagreements without the intervention of the court. If any such motion lacks such a statement, that motion may be dismissed summarily for failure to comply with this rule. Repeated failures to comply will be considered an adequate basis for the imposition of sanctions.

Smith's motion to compel recites that he sent a letter to defense counsel about the inadequacies in the disclosures and he has attached a copy of the letter to the motion. His letter points out the alleged deficiencies and states a deadline on which the disclosures must be supplemented in order to avoid a motion to compel. Writing a demand letter and stating a deadline does not constitute conferring in good faith. To confer means:

To consult together; to compare opinions; to carry on a discussion or deliberation; formerly often simply to discourse, to talk, but now implying conversation on some serious or important subject, in distinction from mere light talk or familiar conversation.

WEBSTER'S NEW 20TH CENTURY DICTIONARY OF THE ENGLISH LANGUAGE 360 (The World Publishing Company, 1951). *See also* Bryan A. Garner, A DICTIONARY OF MODERN LEGAL USAGE 198 (2nd ed. 1987) (*confer* means "to come together to take counsel and exchange views"). *Confer* is related to *conference*, which is a "meeting of several persons for deliberation, for the interchange of opinion, or the removal of differences or disputes." BLACK'S LAW DICTIONARY 368 (4th ed. 1968). The parties have not had a conversation about this discovery dispute, so they have not conferred at all, much less conferred in good faith. The motion is therefore summarily denied. Document #8.

IT IS SO ORDERED this 11th day of September, 2012.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE