

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**ERIC C. BURGIE
ADC #120956**

PLAINTIFF

V.

CASE NO. 5:09CV00136 JMM/BD

DARRYL GOLDEN, et al.

DEFENDANTS

ORDER

Plaintiff has filed two motions to compel (docket entries #26 and #29). The Court will address each motion separately.

I. Motion to Compel (docket entry #26)

In the first motion to compel (#26), Plaintiff seeks a Court order requiring the Defendants to produce copies of the chapters of the *Complete Book of Voodoo* that they have preserved for trial in this matter. The Arkansas Department of Correction (“ADC”) Defendants have responded to Plaintiff’s motion (#28).

In their response, the ADC Defendants state that they have preserved copies of several chapters of the book in question, but do not state whether they have provided Plaintiff access to these copies. Accordingly, Plaintiff’s motion (#26) is GRANTED in part, and DENIED in part. The ADC Defendants are ordered to provide Plaintiff reasonable access to the copies of the chapters of the *Complete Book of Voodoo* that they have preserved. The ADC Defendants are not required to provide Plaintiff actual copies of the material in question.

II. Motion to Compel (#29)

In the second motion to compel (#29), Plaintiff seeks an order requiring Defendants to respond to requests for production and to produce copies of “requests for interviews.” The ADC Defendant have responded to Plaintiff’s motion, stating that Plaintiff prematurely filed a motion to compel, rather than sending them requests for the documents (#32).

The ADC Defendants correctly note that discovery requests must be sent directly to an opposing party. A motion to compel cannot be used as a plaintiff’s initial request for discovery. Accordingly, Plaintiff’s motion to compel (#29) is DENIED.

Plaintiff must send all discovery requests directly to the ADC Defendants. If they fail to produce requested information, Plaintiff may file a motion to compel at that time.

IT IS SO ORDERED this 14th day of September, 2009.


UNITED STATES MAGISTRATE JUDGE