



1 **DISCUSSION**

2 **I. Motion to Compel**

3 By the instant motion, Defendants seek an order compelling Plaintiff to supplement his  
4 responses to Defendants' Special Interrogatories Sets One and Two and an order compelling  
5 Plaintiff to sign an Authorization to Release Mental Health Records. On March 30, 2011,  
6 Plaintiff filed supplemental responses to the two sets of interrogatories, along with two signed  
7 release forms. Doc. 70.

8 It appearing that Plaintiff has provided supplemental responses and a signed release,  
9 Defendants' motion to compel is DENIED AS MOOT. However, if Defendants believe the  
10 supplemental responses or the signed releases are deficient, they may file a motion to compel  
11 further responses.

12 **II. Fees and Costs**

13 Defendants request an award of fees and costs pursuant to Federal Rule of Civil  
14 Procedure 37(a)(5)(A). If the requested discovery is provided after a motion to compel is filed,  
15 the Court must, after giving an opportunity to be heard, require the party whose conduct  
16 necessitated the motion to pay the movant's reasonable expenses incurred in making the motion,  
17 including attorney's fees. Fed. R. Civ. P. 37(a)(5)(A). However, the Court must not order  
18 payment if, among other things, circumstances make an award of expenses unjust. Fed. R. Civ.  
19 P. 37(a)(5)(A)(iii). In this instance, the Court declines to award expenses because Plaintiff is  
20 proceeding pro se in this matter. Defendants also have suggested that there may have been a  
21 misunderstanding regarding the terms used in the authorization for release of mental health  
22 records. Doc. 69.

23 **CONCLUSION**

24 Based on the above, Defendants' motion to compel is DENIED AS MOOT.  
25 Additionally, Defendants' request for fees and costs is DENIED.

26 IT IS SO ORDERED.

27 **Dated: March 31, 2011**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE