

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01799-WYD-MEH

DARREN WILEY,

Plaintiff,

v.

COVAD COMMUNICATIONS COMPANY,

Defendant.

ORDER

Michael E. Hegarty, United States Magistrate Judge.

Pending before the Court is Plaintiff's Renewed Motion to Quash Defendant's Subpoena Duces Tecum to United Air Lines, Inc. [filed February 12, 2010; docket #42]. The motion is referred to this Court for disposition. (Docket #43.) Defendant responded to the motion; however, to date, Plaintiff has not replied. Oral argument would not assist the Court in adjudicating this matter. For the reasons stated below, the Court **DENIES** Plaintiff's Renewed Motion to Quash.

Defendant represents that Plaintiff received notice of the subpoena to United Air Lines on January 26, 2010. (Docket #50 at 6.) The subpoena required production of documents on or before February 2, 2010. (*Id.* at 3; *see also* docket #39-2.) Pursuant to Fed. R. Civ. P. 45 and D.C. Colo. LCivR 7.1A, Plaintiff had until February 2, 2010, to confer with Defendant and object to the subpoena. Fed. R. Civ. P. 45(c)(2)(B) (providing that an objection to a subpoena must be "served before the earlier of the time specified for compliance or 14 days after the subpoena is served.").

Plaintiff filed his first Motion to Quash on January 29, 2010, which the Court denied without prejudice for failure to comply with D.C. Colo. LCivR 7.1A on February 1, 2010. (Dockets ##39,

41.) The Court agrees with Defendant's assertion that, at this point, Plaintiff still could have conferred and filed a renewed motion before the original deadline on February 2, 2010. (Docket #50 at 4, 6.) Plaintiff did not file the present motion until February 12, 2010. (Docket #42.) Even considering the four days tolled with the filing of Plaintiff's first Motion to Quash, Plaintiff did not file a renewed motion within a reasonable time after this Court's February 1, 2010, minute order. To date, Plaintiff has not filed a reply in support of his request, and Plaintiff offers no other excuse for the tardiness of his objection. Therefore, in accordance with Fed. R. Civ. P. 45 and D.C. Colo. LCivR 7.1A, the Court **DENIES** Plaintiff's Renewed Motion to Quash Defendant's Subpoena Duces Tecum to United Air Lines, Inc. [filed February 12, 2010; docket #42] as untimely.

Dated at Denver, Colorado, this 29th day of March, 2010.

BY THE COURT:



Michael E. Hegarty
United States Magistrate Judge