

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02605-CMA-MJW

SHAWN D. ALLEN,

Plaintiff,

v.

R. REYNOLDS,

Defendant.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby **ORDERED** that the plaintiff's Motion to Amend Complaint (Docket No. 45), to which no response was filed by the defendant, is **granted**, and the tendered Amended Complaint (Docket No. 45-1) is accepted for filing as of the date of this Minute Order.

It is further **ORDERED** that the plaintiff's Motion to Compel (Docket No. 48) is **denied** as set forth below:

Interrogatory No. 3. Defendant need not answer as the interrogatory does not have any relevance to the claims and defenses in this action. Plaintiff claims he needs information about defendant's training and experience, but information regarding when defendant graduated high school has no relevance.

Interrogatory No. 4. Defendant has responded, and there is no reason to compel a response.

Interrogatory No. 17. Defendant has responded, and there is no reason to compel a response.

Interrogatory Nos. 20 and 21. Defendant need not answer as the interrogatories do not have any relevance to the claims and defenses in this action.

Interrogatory No. 22. Defendant need not answer for the reasons stated in the defendant's response.

Request for Production No. 2. Defendant has responded and need not respond further.

Request for Production No. 3. Defendant has responded and need not respond further. Defendant is not the custodian of the requested materials and does not have them in his custody and control.

Request for Production No. 4. Defendant need not respond as the request is overly broad and unduly burdensome.

Request for Production No. 5. Defendant has responded and need not respond further.

Request for Production No. 8. Defendant need not produce such materials because he is not the custodian of the requested materials and does not have them in his custody and control. Defense counsel stated in the response he nevertheless attempted to gather the requested materials, but such materials are not maintained for longer than a year, and thus such materials cannot be produced.

Request for Production Nos. 9 and 10. Defendant has responded and need not respond further. Even though defendant is not the custodian of the requested materials, defense counsel attempted to obtain them and was told that no letters or other documents to or from plaintiff to Warden Leyba were found, and thus it did not appear that there were any such documents to produce.

Request for Production No. 12. Defendant has responded and need not respond further. The parties will be required to disclose this information and provide copies of trial exhibits at a later date.

Request for Production No. 13. Defendant has responded and need not respond further. Plaintiff has been notified of the arrangements defense counsel made to provide plaintiff access to the copy of the recording of the disciplinary hearing.

Request for Production No. 14. Defendant need not produce such materials because he has no personal knowledge of such materials, is not the custodian of the requested materials, and does not have them in his custody and control.

Date: February 4, 2011
