

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-03135-WJM-KLM

KEITH ALLEN JOHNSON,

Plaintiff,

v.

JEFFERY HEINIS, #06140  
CHRIS CAMERON, #87014, and  
CHRISTOPHER BALES, #87014,

Defendants.

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**ORDER**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on Defendants' **Motion to Compel Discovery** [Docket No. 50; Filed October 26, 2012] (the "Motion"). Plaintiff has not filed a response and the time to do so has expired. See D.C.COLO.LCivR 7.1C. Defendants have filed a **Reply in Support of Their Motion to Compel Discovery** [#53; Filed November 25, 2012].

Defendants seek an order compelling Plaintiff to respond to Defendant Heinis's First Set of Interrogatories and Requests for Production of Documents to Plaintiff and Defendant Cameron's Interrogatories to Plaintiff ("Discovery Requests"). Defendants explain that they served the Discovery Requests on Plaintiff by mail on August 15, 2012 at the Arkansas Valley Correctional Facility in Crowley, Colorado. [#50] at 2. As of November 25, 2012, Plaintiff had not provided responses to the Discovery Requests, which were due on or about September 23, 2012. [#50] at 2; [#53] at 1. Defendants also request that pursuant to Fed. R. Civ. P. 37(a)(5)(A), Plaintiff be required to pay their reasonable expenses,


including attorneys' fees, incurred in bringing the Motion. [#50] at 2-3.

Fed. R. Civ. P. 37(a)(3)(B) provides that a party may move to compel discovery responses if the party to whom the discovery requests were propounded fails to properly respond. Any such motion "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Fed. R. Civ. P. 37(a)(1). Defendants' Motion contains no such certification or any information about their attempts to resolve the matter without court action. Accordingly,

IT IS HEREBY **ORDERED** that the Motion [#50] is **DENIED WITHOUT PREJUDICE**.

Dated: November 28, 2012

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kristen L. Mix". The signature is written in a cursive, flowing style.

Kristen L. Mix  
United States Magistrate Judge