

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer

Civil Action: 12-cv-01578-LTB-CBS
Date: May 22, 2013

FTR - Reporter Deck-Courtroom A402
Courtroom Deputy: Courtni Covington

Parties:

MATTHEW ALAN SMITH,

Plaintiff,

v.

UNITED PARCEL SERVICE,

Defendant.

Counsel:

Pro Se

Judith A. Biggs

COURTROOM MINUTES/MINUTE ORDER

HEARING: MOTION HEARING

Court in Session: 10:39 a.m.

Court calls case. Appearances of counsel. Matthew Alan Smith appears *pro se*.

The matter is before the court regarding Plaintiff's **MOTION to Compel Pursuant to Rule 37** [Doc. No. 100, filed 3/29/2013] and **MOTION to Compel Pursuant to Rule 37** [Doc. No. 101, filed 3/29/2013]. The court notes that a Motion for Summary Judgment has been filed by both parties.

Discussion between the court and Mr. Smith regarding his job assessment in question, claims before the court, and discovery on a national versus local basis.

The court addresses its concerns with Plaintiff's Motions to Compel. The court asks for clarification of the PTRS records Plaintiff is requesting in Interrogatory #1. Discussion between the court and Mr. Smith regarding broad interrogatories and relevance of what is being requested.

Further discussion regarding Mr. Smith's job evaluations and the specific supervisors' PTRS records being requested in the Motions to Compel.

Discussion between the court and Defendant's counsel regarding obtaining Plaintiff's 2009 PTRS

records and their response to the requesting interrogatory.

ORDERED: Plaintiff's **MOTION to Compel Pursuant to Rule 37** [Doc. No. 100, filed 3/29/2013] is **GRANTED IN PART** and **DENIED IN PART**.

The court **GRANTS** Plaintiff's Motion with respect to Interrogatory #1. United Parcel Service is required to produce Mr. Smith's 2009 PTRS Records. If Defendant is unable to produce those records, they must explain why and identify the date the records ceased to exist.

Discussion regarding Interrogatory #2 and Plaintiff's request for Security Access Key Card records.

ORDERED: The court **GRANTS** Plaintiff's Motion with respect to Interrogatory #2. United Parcel Service is required to produce the Security Access Key Card records for Mr. Smith for 2009 through 2010. If Defendant is unable to produce responsive records, they must explain why and identify the date the records ceased to exist.

Discussion regarding Interrogatory #3 and the CO International ODC Supervisory Industrial Engineering time study information being requested.

ORDERED: The court **DENIES** Plaintiff's Motion with respect to Interrogatory #3 as the court cannot require the Defendant to produce records that do not exist.

Discussion regarding Plaintiff's Interrogatories #4, #5, #6, and #7, #8, #9, #10, #11.

ORDERED: The court **DENIES** Plaintiff's Motion with respect to Interrogatories #4, #5, #6, and #7, #8, #9, #10, #11 as over broad.

Discussion regarding Plaintiff's **MOTION to Compel Pursuant to Rule 37** [Doc. No. 101, filed 3/29/2013]. The court addresses its concerns with over broad requests. Discussion regarding number of documents produced by Defendant during the discovery process and RCR audits and ISRG records requested by Plaintiff.

The court advises Plaintiff that the discovery process is over. Defendant's counsel notes that excerpts from the RCR audits referencing Mr. Smith were provided and ISRG records are not kept for long periods of time.

ORDERED: The court **DENIES** Plaintiff's **MOTION to Compel Pursuant to Rule 37** [Doc. No. 101, filed 3/29/2013] as the court nor the Plaintiff is clear what documents Defendant have already been produced and which would be duplicative. The Plaintiff has not met his burden.

The court directs Plaintiff to file no further Motions to Compel.

Discussion regarding Defendant's **Proposed Bill of Costs** [Doc No. 106, filed 4/4/2013].

ORDERED: Defendant's **Proposed Bill of Costs** [Doc No. 106, filed 4/4/2013] is **GRANTED** for the reasons stated on the record. Plaintiff is directed to compensate Defendant with a check in the amount of \$2,893.50 within 60 days of today's date, on or before July 22, 2013.

Further discussion on pending Motions for Summary Judgment and if oral argument on the motions is needed. Neither party requests oral argument.

Discussion regarding the resetting of the Final Pretrial Conference.

ORDERED: The Final Pretrial Conference is reset to **Tuesday, July 30, 2013 at 10:00 a.m.** A Proposed Final Pretrial Conference Order is due no later than **July 22, 2013.**

HEARING CONCLUDED. **Court in recess: 1:08 p.m.** Total time in court: 02:29

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