

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00492-KLM

THOMAS JAMES LONARDO,

Plaintiff,

v.

MIKE LEFABRE,
DR. HOLMES,
GRACE FARRELL, RN,
KAREN TUCKER, CRN, and
HEATHER HANREY,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendants' **Motion to Compel Responses to Interrogatories and Requests for Production of Documents** [#44]¹ (the "Motion to Compel") and on Defendants' **Motion for Extension of Discovery Deadline** [#45] (the "Motion for Extension"). The deadline for Plaintiff, who proceeds as a pro se litigant,² to timely respond to the Motion to Compel [#44] has lapsed. See D.C.COLO.LCivR 7.1(d).

¹ "[#44]" is an example of the convention the Court uses to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). This convention is used throughout this Order.

² The Court must construe the filings of pro se litigants liberally. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be the pro se litigant's advocate, nor should the Court "supply additional factual allegations to round out [the pro se litigant's] complaint or construct a legal theory on [his] behalf." *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997) (citing *Hall*, 935 F.2d at 1110). In addition, pro se litigants must follow the same procedural rules that govern other litigants. *Nielson v. Price*, 17 F.3d 1276, 1277 (10th Cir. 1994).

In the Motion to Compel [#44], Defendants assert that they propounded written discovery to Plaintiff on February 3, 2016. See *Ex. A, Def.'s First Set of Written Discovery to Plaintiff Thomas James Lombardo* [#44-1]. The discovery requests included copies of waivers for Plaintiff's medical and incarceration records. See *id.* at 11-16. Plaintiff did not respond in any way to the requests, and on March 14, 2016, in compliance with Fed. R. Civ. P. 37(a)(1), Defendants wrote Plaintiff a letter requesting that he answer the discovery requests and sign the provided waivers. See *Ex. B, Letter to Plaintiff dated 3/14/16* [#44-2]. Plaintiff also failed to respond to the letter. *Motion to Compel* [#44] at 3.

Pursuant to Fed. R. Civ. P. 37(a)(3)(B), "[a] party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if: . . . (iii) a party fails to answer an interrogatory submitted under Rule 33; or (iv) a party fails to produce documents . . . as requested under Rule 34." Here, the written discovery propounded by Defendants consisted of interrogatories under Rule 33 and requests for production under Rule 34. See *Ex. A* [#44-1]. Given Plaintiff's failure to respond to the discovery propounded on him by Defendants on February 3, 2016,

IT IS HEREBY **ORDERED** that the Motion to Compel [#44] is **GRANTED**. Plaintiff shall respond to Defendants' First Set of Written Discovery to Plaintiff Thomas James Lonardo [#44-1] (including Defendants' request for waivers regarding Plaintiff's medical and incarceration records) **no later than May 27, 2016**. **Plaintiff is warned that failure to timely respond will result in sanctions, including the possible dismissal of his case for failure to prosecute and comply with Court orders.**

IT IS FURTHER **ORDERED** that the Motion for Extension [#45] is **GRANTED**. The

discovery deadline is extended to **June 28, 2016**.

IT IS FURTHER **ORDERED** sua sponte that the dispositive motions deadline is extended to **July 28, 2016**.

Dated: April 27, 2016

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