

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FRANK LATELL,

Plaintiff,

v.

Case No: 2:13-cv-565-FtM-29CM

PETER C. TRIANO and
SANTANDER BANK,

Defendants.

ORDER

Before the Court is Plaintiff's Renewed Motion to Compel Discovery (Doc. 61, "Renewed Motion") filed on August 27, 2014. Plaintiff is requesting that the Court reinstate his Motion to Compel (Doc. 35) which was denied as moot when the Court stayed this case on February 28, 2014 for a period of 90-days. Doc. 41, "Stay Order." In its Stay Order, the Court stated that Plaintiff may re-file the Motion to Compel when and if discovery recommences in this case. *Id.* at ¶ 3. Discovery currently is ongoing.

The Court notes that the original Motion to Compel was filed by Plaintiff when he was proceeding *pro se* and simply stated that no timely responses were received to his discovery requests. Doc. 35. Defendants responded at that time that no responses were provided to the discovery requests because it had moved for a stay of discovery and accordingly had moved for an extension of the time to respond to the

discovery requests.¹ Docs. 37, 39. Plaintiff, now represented by counsel, did not re-file the Motion to Compel; rather, counsel merely submitted the interrogatories and request for production at issue, with no memorandum of law as required by Local Rule 3.01(a). Doc. 61. Further, counsel's Local Rule 3.01(g) certification states that Defendants' counsel did not provide a substantive response as to whether they oppose the Renewed Motion. *Id.* at 3. Local Rule 3.01(g) specifically states that a certification that opposing counsel was unavailable for a conference before filing the motion is insufficient to satisfy the parties' obligation to confer. M.D. Fla. Rule 3.01(g). Given that Plaintiff is now represented by counsel and discovery has recommenced, the parties are directed to meet and confer regarding the outstanding discovery requests in an attempt to come to an agreement prior to involving the Court. Thus, the Renewed Motion will be stricken for failure to comply with the Local Rules.

ACCORDINGLY, it is hereby

ORDERED:

1. Plaintiff's Renewed Motion to Compel Discovery (Doc. 61) is **STRICKEN**.
2. The Clerk is directed to remove the stay flag from this case.

¹ These motions were denied as moot when the Court stayed the matter. Doc. 41.

DONE and **ORDERED** in Fort Myers, Florida on this 28th day of August, 2014.



CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record