

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

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|---------------------------------|---|----------------------------|
| MELALEUCA, INC., |) | |
| |) | Case No. 4:10-cv-420-LMB |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM DECISION |
| |) | AND ORDER |
| ORGANO GOLD INTERNATIONAL, INC. |) | |
| et al., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

Currently before the Court and addressed herein is Plaintiff’s Motion to Compel Response to Interrogatories (Dkt. 58). Having reviewed the parties’ briefing and the record, the Court has determined that oral argument will not aid in rendering its decision in this matter and the pending motion will be decided on the written materials submitted. Being fully advised, the Court issues the following Memorandum Decision and Order denying Plaintiff’s motion.

Plaintiff moves under Federal Rules of Civil Procedure 33 and 37 for an order compelling Defendants to answer interrogatories served upon the Defendants in Melaleuca’s first and second discovery requests, and an award of attorney fees and costs incurred in bringing this motion. Defendants object to the Motion based upon (1) their preserved objection that Plaintiff exceeded the twenty-five (25) interrogatories allowed by Federal Rule 33, (2) Plaintiff’s failure to point out why the objections were not justified,

and (3) Plaintiff's failure to satisfy the Court's meet-and-confer requirement. Defendants request an award of attorney fees and costs incurred in responding to Plaintiff's motion.

The Court concludes that Plaintiff's motion should be denied. The Court concludes that the interrogatories, including discrete sub-parts, served by Plaintiff exceed the amount allowed under the Federal Rules of Civil Procedure without proper leave of the Court or stipulation, Fed. R. Civ. P. 33(a)(1), and that Melaleuca did not satisfy the meet-and-confer requirements of Fed. R. Civ. P. 37(a), or the Court's local rule, Dist. Idaho Loc. Civ. R. 37.1.

For the foregoing reasons,

IT IS HEREBY ORDERED:

1. Plaintiff's Motion to Compel (Dkt. 58) is DENIED.
2. Defendants' request for an award for attorney fees is DENIED.



DATED: **November 16, 2011.**

A handwritten signature in black ink that reads "Larry M. Boyle". The signature is written in a cursive style and is positioned above a horizontal line.

Honorable Larry M. Boyle
United States Magistrate Judge