

Rule 37.1(a) adds the requirement that the certification also state “the date, time, and place of the conference or attempted conference and the names of all persons participating therein.” Local Rule 37.1(c) also directs that the certification be filed “in a separate document filed contemporaneously with the motion.”

“A good faith effort to resolve a discovery dispute requires that counsel converse, confer, compare views, consult and deliberate.” *Imbody v. C & R. Plating Corp.*, No. 1:08-cv-218, 2010 WL 3184392, at *1 (N.D. Ind. Aug. 10, 2010) (citation and internal quotation marks omitted). *See also Ellis v. CCA of Tenn., LLC*, No. 1:08-cv-0254-SEB-JMS, 2009 WL 234514, at *2 (S.D. Ind. Feb. 2, 2009) (citation omitted). “The requirement to meet and confer must be taken seriously, because ‘before the court can rule on a motion, the parties must demonstrate they acted in good faith to resolve the issue among themselves.’” *Imbody*, 2010 WL 3184392, at *1 (quoting *Robinson v. Potter*, 453 F.3d 990, 995 (8th Cir. 2006)).

In the present case, the Plaintiff claims that a November 4, 2010, email to a paralegal in the office of Defendants’ counsel constitutes a good faith attempt to resolve the discovery dispute. A single e-mail sent to a paralegal, however, falls utterly short of a good faith attempt at a conference. *See Forest River Hous., Inc. v. Patriot Homes, Inc.*, No. 3:06-cv-841 AS, 2007 WL 1376289, at *2 (N.D. Ind. May 7, 2007) (“[T]wo emails . . . do not constitute meaningful discussion or serious negotiations to resolve the disputed discovery issue.”); *In re FedEx Ground Package Sys., Inc.*, No. 3:05-MD-527 FM (MDL-1700), 2007 WL 79312, at *7 (N.D. Ind. Jan. 5, 2007) (“[A] single email sent by the Plaintiffs does not constitute an engagement in a conference to resolve the discovery dispute.”); *Hoelzel v. First Select Corp.*, 214 F.R.D. 634 (D.C. Colo. 2003) (concluding that a single email did not satisfy the meet and confer requirement). *See generally Imbody*, 2010 WL 3184392, at *1 (concluding that several letters exchanged between

counsel was not a good faith conference); *Shoppell v. Schrader*, No. 1:08-cv-284, 2009 WL 2515817, at *1-2 (N.D. Ind. Aug. 13, 2009) (finding that a telephone call and a letter was not a good faith conference); *Pinkham v. Gen. Prods. Corp.*, No. 1:07-cv-174, 2007 WL 4285376, at *1 (N.D. Ind. Dec. 3, 2007) (concluding that an exchange of five letters was not a good faith conference). The Plaintiff's Motion to Compel must therefore be DENIED for its failure to undertake a good faith effort to informally settle this discovery dispute as required by Federal Rule of Civil Procedure 37(a)(1).

Furthermore, even if the Plaintiff's email constituted a good faith attempt to resolve the discovery dispute, there is no contemporaneously filed certification reciting the date, time, and place of the conference and the parties that participated, as required by Local Rule 37.1. The failure to file the required certification is itself grounds for denial of the Plaintiff's Motion to Compel. *See* N.D. Ind. L.R. 37.1(c) ("The court may deny any motion [to compel] . . . if the required certification is not filed.").

The Court also notes that the discovery deadline in this case was January 25, 2010, and the dispositive motion deadline was April 9, 2010. (Docket ## 20, 21, 24, 25.) Indeed, the Court confirmed the close of discovery on February 17, 2010. (Docket # 24.) The Plaintiff's Motion—coming eleven months after the close of discovery and over eight months after the dispositive motion deadline—is therefore untimely and, although this fact is not mentioned by either party, would be objectionable on this basis as well. To ensure that further unauthorized discovery is not launched without Court oversight, the Court, on its own motion, stays all discovery until further order.

To summarize, the Plaintiff's Motion to Compel (Docket # 26) is DENIED for failure to

comply with Federal Rule of Civil Procedure 37(a)(1) and Local Rule 37.1. Furthermore, the Court STAYS any further discovery in this case until further order. The Court sets this matter for a telephone status conference on January 11, 2011, at 9:00 a.m. The Court will initiate the call and will inquire concerning when mediation is scheduled.

SO ORDERED.

Enter for December 29, 2010.

S/Roger B. Cosby
Roger B. Cosby
United States Magistrate Judge