

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

BRIAN ANTHONY THORNTON,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No.: 1:14-cv-178-PPS-SLC
SCAN, INC., et al.,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court is Defendants’ Motion to Compel (DE 41), asking that the Court order *pro se* Plaintiff Brian Anthony Thornton to produce his initial disclosures in accordance with Federal Rule of Civil Procedure 26(a)(1) and his answers and responses to their outstanding discovery requests (DE 35; DE 36). Thornton has not filed a response to the motion, and his time to do so has now passed. For the following reasons, Defendants’ motion to compel will be GRANTED.

A. Procedural Background

This Court conducted a scheduling conference on April 10, 2015, setting a deadline of January 11, 2016, for the completion of all discovery. (DE 29). Under Federal Rule of Civil Procedure 26(a)(1)(C), a party must make its initial disclosures within 14 days after the parties’ Rule 26(f) conference. As of the date Defendants filed their motion, Thornton had not produced his initial disclosures. (DE 41 ¶ 4).

On or about June 8, 2015, Defendants served their Interrogatories and Request for Production of Documents on Thornton. (DE 41 ¶ 5; DE 35; DE 36). As of the date Defendants filed their motion, Thornton had not responded to these written discovery requests. (DE 41 ¶ 6).

On July 28, 2015, Defendants sent an email to Thornton's last known email addresses requesting the overdue discovery materials, but no response was received. (DE 41 ¶ 8). On August 12, 2015, Defendants' counsel spoke with Thornton via telephone; Thornton stated that he had filed his discovery responses with the Court several weeks earlier, but that he would provide additional copies to Defendants' counsel no later than August 14, 2015. (DE 41 ¶ 9; DE 41-1). Thornton, however, has not filed any discovery responses with the Court, and as of the date Defendants filed their motion, they had not received any initial disclosures or discovery responses from Thornton. (DE 41 ¶¶ 10, 11).

B. Applicable Law

Under Federal Rule of Civil Procedure 37, a party is permitted to file a motion to compel where another party fails to produce its disclosures or respond to discovery requests. *See Redmond v. Leatherwood*, No. 06-C-1242, 2009 WL 212974, at *1 (E.D. Wis. Jan. 29, 2009). Together with the motion to compel, a party must file "a separate certification that the party has conferred in good faith or attempted to confer with other affected parties in an effort to resolve the matter raised in the motion without court action." N.D. Ind. L.R. 37-1(a); *see* Fed. R. Civ. P. 37(a)(1). "A motion to compel discovery pursuant to Rule 37(a) is addressed to the sound discretion of the trial court." *Redmond*, 2009 WL 212974, at *1 (citation omitted).

C. Discussion

The Court finds that Defendants' counsel has adequately attempted to confer in good faith with Thornton in an effort to resolve this matter without Court action. *See* Fed. R. Civ. P. 37(a)(1); N.D. Ind. L.R. 37-1(a). Thornton appears to have simply ignored Defendants' outstanding discovery requests, their counsel's attempt at consultations, and the instant motion to

compel, as well as his obligation to produce initial disclosures pursuant to Rule 26(a).

Consequently, the Court will GRANT the motion to compel and order Thornton to file his Rule 26(a)(1) disclosures and his answers or responses to Defendants' outstanding discovery requests. *See, e.g., Redmond*, 2009 WL 212974, at *1, 3 (granting plaintiff's motion to compel where defendants appeared to have "entirely ignored the plaintiff's discovery requests").

D. Conclusion

For the foregoing reasons, Defendants' Motion to Compel (DE 41) is GRANTED. Thornton is ORDERED to file his Rule 26(a)(1) initial disclosures and his answers or responses to Defendants' Interrogatories (DE 35) and Request for Production of Documents (DE 36) on or before September 28, 2015. **Thornton is advised that if he fails to file the disclosures and discovery responses on or before September 28, 2015, sanctions could be imposed, up to and including possible dismissal of this case.**

SO ORDERED.

Enter for September 14, 2015.

S/Susan Collins
Susan Collins
United States Magistrate Judge