

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ALFRED STONE,)
)
Plaintiff,)
)
v.) CASE NO. 1:11-cv-00057-SEB-TAB
)
GREGORY A. BALLARD, RICK POWERS,)
EMILY MACK, SCOTT MASON, and)
CITY OF INDIANAPOLIS DEPARTMENT)
OF METROPOLITAN DEVELOPMENT,)
)
Defendants.)

ORDER ON PLAINTIFF'S MOTION TO COMPEL

This cause is before the Court on Plaintiff's motion to compel. [Docket No. 33.]

Plaintiff, who is proceeding *pro se*, appeared in person and Defendants by counsel June 21, 2011, for a telephonic status conference, during which the parties were given a full opportunity to be heard on Plaintiff's motion. As set forth below, the motion is granted in part and denied in part.

Plaintiff's motion first seeks to compel an additional response to Interrogatory No. 3(b), which seeks the age and the race of David O'Hare, the person hired instead of Plaintiff. In response to this interrogatory, Defendants produced O'Hare's personnel file, which contains the requested information. This is an acceptable response, consistent with Fed. R. Civ. P. 33(d). Therefore, Plaintiff's motion to compel a further response to Interrogatory No. 3(b) is denied.

Plaintiff next seeks to compel a further response to Interrogatory No. 5, which asks the Defendants to identify, for the prior two-year period, all employees under the direct supervision

of Scott Mason, the hiring official. In response, Defendants produced documents identifying all employees (and their race, age, and date of hire) in the division Mason supervises, as well as the Department of Metropolitan Development. Consistent with Rule 33(d), the Court finds this response sufficient and denies Plaintiff's motion to compel in this regard.

Despite the documents Defendants produced, Plaintiff argued that he was entitled to a verified interrogatory response from Mason stating whether O'Hare worked under Mason's supervision, and if so, the dates that he did so. This request is reasonable, and Plaintiff's motion to compel is granted in this respect. Defendants shall provide this verified response by July 5, 2011.

Finally, Plaintiff sought to compel further discovery from Indianapolis Mayor Greg Ballard, who also is a Defendant in this case. Defendants have filed a motion seeking to have Ballard dismissed from this lawsuit, and also provided an interrogatory response, verified by Ballard, stating that he has no knowledge regarding the hiring of O'Hare and received no reports regarding his hiring. Given this response and the pending motion to dismiss Ballard, the Court exercises its discretion to deny Plaintiff's motion to compel a further response from Ballard at this time. If the motion to dismiss is denied, Plaintiff should confer with Defendants' counsel regarding any additional discovery Plaintiff may seek from Ballard. If the parties cannot resolve any resulting discovery dispute, any party may then request a conference with the Magistrate Judge to address the issue.

For these reasons, Plaintiff's motion to compel [Docket No. 33] is granted in part and denied in part. As Defendants' position was substantially justified, the Court overrules

Plaintiff's request for costs.

Dated: 06/22/2011

7-13L

Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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