

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION
CIVIL ACTION NO. 4:20-CV-00190-JHM-HBB**

GARY KEIM

PLAINTIFF

VS.

KEVIN MAZZA, et al.

DEFENDANTS

**MEMORANDUM OPINION
AND ORDER**

Before the Court is the motion of Plaintiff Gary Keim for an order compelling Defendants Kevin R. Mazza and Bobbi Jo Butts to answer interrogatories (DN 105). For the reasons that follow, Mazza and Butts are directed to file a response to Keim's motion to compel.

DISCUSSION

Apparently, Keim seeks to compel Mazza and Butts to answer Interrogatories that he served on April 30, 2021 and July 22, 2021 (see DN 30, 31, 45). Keim previously moved to compel Mazza and Butts to answer these interrogatories (DN 44).

On November 23, 2021, Judge McKinley issued a Memorandum Opinion and Order that addressed a number of motions filed by Keim, including the aforementioned motion to compel (DN 66). Concerning Keim's claim that Butts and Mazza had failed to respond to the interrogatories, Judge McKinley commented:

A review of the record reveals that Defendants Mazza and Butts did not file an answer in this action until several months after Plaintiff filed the instant motion to compel. Because these Defendants had not yet answered the action, they were not required to engage in the discovery process. Thus, **IT IS HEREBY ORDERED** that Plaintiff's motion to compel Defendants Mazza and Butts to respond

to his discovery requests (DN 44) is **DENIED as premature**. However, now that these Defendants have filed an answer, they are required to engage in discovery with Plaintiff. Thus, the Court will enter a revised Scheduling Order to govern the discovery process and reset the dispositive motion deadline for these Defendants.

(Id. at p. 3).

On November 23, 2021, a Revised Scheduling Order was filed (DN 68). It set deadlines, including discovery, that applied to Mazza and Butts (DN 68). In pertinent part the scheduling order reads:

The parties shall complete all pretrial discovery herein no later than March 21, 2022. As a requirement of discovery, Defendants' counsel shall produce to Plaintiff all records or documentation which are relevant to the continuing claims. **Counsel shall certify that the production is complete and shall file the certification with the Court.**

(DN 68 p. 1). In Orders filed on October 13, 2022, and January 3, 2023, the undersigned granted motions filed by Mazza and Butts to extend their deadline to complete and certify discovery (DN 96, 101).

On March 2, 2023, Mazza and Butts timely certified that they had “produced to Plaintiff all records or documentation which are relevant to the claim(s) set forth in the Complaint that have survived initial review” (DN 104). While their certification addresses records or documentation that Mazza and Butts have produced to Keim, it is silent concerning whether they have responded to his interrogatories. Moreover, Keim appears to have responded to their certification by subsequently filing his motion to compel Mazza and Butts to answer his interrogatories (DN 105).

For the above reasons, the Court needs clarification concerning whether Mazza and Butts have responded to Keim's interrogatories and, if not, why they should not be ordered to do so.

ORDER

WHEREFORE, Mazza and Butts shall respond to Keim's motion to compel **by no later than May 2, 2023**.

IT IS FURTHER ORDERED that Keim may file a reply **by no later than May 22, 2023**.

April 12, 2023


H. Brent Brennenstuhl
United States Magistrate Judge

The signature is written in black ink over a circular seal of the United States District Court for the District of Columbia. The seal features an eagle with wings spread, perched on a shield, with the words "United States District Court" and "District of Columbia" around the perimeter.

Copies to: Gary Keim, *pro se*
Counsel of Record