

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY ANDERSON,

Plaintiff,

Case No. 17-12676

v.

District Judge Victoria A. Roberts
Magistrate Judge Anthony P. Patti

COLTER FURST, et al.,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION TO
COMPEL ANSWERS TO INTERROGATORIES (DE 55)**

Plaintiff Jerry Anderson is a state prisoner proceeding *in forma pauperis*. On August 14, 2017, he filed a civil rights lawsuit against Colter Furst, Michael Thomas, and Nathan Ellis (collectively, “Defendants”), alleging that the Defendants, all Michigan State Police (“MSP”) Troopers, violated his Fourth Amendment rights by using excessive force during his September 4, 2015 arrest. (DE 1.) The Court granted Plaintiff’s application to proceed *in forma pauperis*, and all Defendants have been served and have filed their Answer. (DE 14.)

On September 28, 2018, Plaintiff filed the instant motion to compel pursuant to Fed. R. Civ. P. 37(a). (DE 55.) In his motion, dated September 25, 2018, Plaintiff states that he served interrogatories on each of the Defendants on August 27, 2018, but that he has not received any responses. (*Id.*) Plaintiff complains that

he has “not yet received the answers within the time frame of 14 days as required by LR 7.1(e)(2)(3). (*Id.*) However, LR 7.1 addresses “Motion Practice,” not discovery. Federal Rule of Civil Procedure 33 governs “Interrogatories to Parties” and provides that “[t]he responding party must serve its answers and any objections within **30 days** after being served with the interrogatories.” Fed. R. Civ. P. 33(b)(2) (emphasis added). Accordingly, Defendants were not required to respond to Plaintiff’s interrogatories, served on August 27, 2018, until **October 1, 2018** (which is 30 days after they were served, plus an additional three days for service by mail pursuant to Fed. R. Civ. P. 6(d), and an additional two days to account for the last day falling on a Saturday, pursuant to Fed. R. Civ. P. 6(a)(1)(C)). Therefore, Plaintiff’s motion to compel, dated September 25, 2018, and filed on September 28, 2018, was filed prematurely, before Defendants were required to respond to the interrogatories. “The fact that Plaintiff is proceeding *pro se* does not excuse [his] failure to follow these court rules which are designed to provide the Court with the facts necessary to rule on the merits of this motion.” *Cotton v. Burt*, No. 04-CV-73508-DT, 2007 WL 188005, at * 1 (E.D. Mich. Jan. 22, 2007).

Accordingly, Plaintiff’s motion to compel pursuant to Fed. R. Civ. P. 37(a) is **DENIED as prematurely filed**, without prejudice to refile in the event that

Defendants have not fulfilled their obligation to respond in accordance with Fed.
R. Civ. P. 33.

IT IS SO ORDERED.

Dated: October 15, 2018

s/*Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on October 15, 2018, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti