

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRYL WATSON,

Plaintiff,

No. 16-13770

v.

District Judge Linda V. Parker
Magistrate Judge R. Steven Whalen

CHARLES JAMSEN, ET AL.,

Defendants.

_____ /

ORDER

On October 21, 2016, Plaintiff, a Michigan Department of Corrections inmate currently housed at the G. Robert Cotton Correctional Facility (“JCF”) in Jackson, Michigan filed suit pursuant to 42 U.S.C. § 1983. Plaintiff alleges that Defendants were deliberately indifferent to his medical condition before and after April, 2016 reconstructive foot surgery. He alleges that complications arising after the foot surgery due to Defendants’ deliberate indifference necessitated a second surgery.

Before the Court is Plaintiff’s motion to compel discovery [Doc. #33], in which he seeks responses to documents requests and interrogatories he served on Defendants Jamsen and Boayue. Although Jamsen and Boayue responded to these discovery requests with objections, they have not filed a response to the present motion.

The records and information that Plaintiff is contained in records maintained by non-party Michigan Department of Corrections, and one of these Defendants' objections is that they do not have custody or control of these documents. That is a valid objection; Defendants cannot produce what they do not have. However, Defendants also state in their objections that they do have at least a portion of Plaintiff's medical records that contain the requested information. Therefore, Plaintiff's motion is GRANTED as to responsive material that is in the Defendants' possession, and which they have agreed to produce upon payment for copying.

While Plaintiff has been granted leave to proceed *in forma pauperis*, and thus was granted a waiver of prepayment of the filing fee, he is not entitled to free copies of discovery material from Defendants. These Defendants state that they have 612 pages of documents, which they can copy at \$.25 per page, for a total of \$156.25. Plaintiff will therefore be required to pay for the copies. Payment will be made by deductions from his prisoner account, at the rate of \$5.00 per month, until the full amount is paid.

To the extent that Defendants obtain further medical records relating to Plaintiff's case, they will produce these to Plaintiff, again at the rate of \$.25 per page for copying, to be paid through deductions from Plaintiff's prisoner account, at the continuing rate of \$5.00 per month until all copying costs are paid.

IT IS SO ORDERED.

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: December 7, 2017

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on December 7, 2017, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen