

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHNNY BRISCOE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 4:08-CV-1717 (CEJ)
	)	
ST. LOUIS COUNTY, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on defendants’ motion to compel plaintiff to respond to defendants’ interrogatories and request for production of documents. Plaintiff opposes the motion, and the issues are fully briefed.

On August 14, 2009, defendants served on plaintiff defendants’ first set of interrogatories and first request for production of documents. On September 15, 2009, plaintiff provided responses to defendants’ discovery requests. Then, on September 24, 2009, defendants contacted plaintiff by phone in attempt to discuss defendants’ dissatisfaction with plaintiff’s responses. After the phone conference, defendants’ counsel sent an email that was intended to memorialized the parties’ agreement. Plaintiff’s attorney did not receive the message because it was sent to the wrong email address.

On October 8, 2009, plaintiff served supplemental responses on defendants. The next day, defendants filed the instant motion to compel. In the motion, defendants seek to compel plaintiff to provide additional supplemental responses to Interrogatories Nos. 3b, 3c, 7-15, 17, 19-22, and 24 as well as Request for Production No. 4.

This Court’s Local Rule 3.04 provides that “[t]he Court will not consider any motion relating to discovery and disclosure unless it contains a statement that

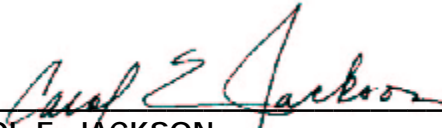
movant's counsel has conferred in person or by telephone with the opposing counsel in good faith or has made reasonable efforts to do so, but that after sincere efforts to resolve their dispute, counsel are unable to reach an accord." E.D. Mo. L.R. 3.04(A).

Here, the September 24, 2009 teleconference demonstrates defendants' good faith effort to resolve the parties' disputes as to plaintiff's initial responses to defendants' interrogatories and request for production of documents. However, it appears that defendants made no effort to confer with plaintiff to resolve any perceived deficiencies in plaintiff's October 8, 2009 supplemental responses.

Although the Court finds that defendants' motion to compel is premature, the motion will not be dismissed as such. Instead, the defendants' counsel will be directed to confer again with plaintiff's counsel to try to resolve this discovery dispute. Counsel for defendants will thereafter file a statement with confirming compliance with this order and informing the Court whether an accord has been reached. If the parties are unsuccessful in their efforts to resolve the disputed matters, the Court will proceed to rule on the motion to compel.

Accordingly,

**IT IS HEREBY ORDERED** that within ten (10) days of the date of this Order, counsel for defendants shall (1) confer with counsel for plaintiff in a good faith effort to resolve the pending discovery dispute and (2) file a statement confirming compliance with this Order and advising whether an accord has been reached.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of December, 2009.