

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SAMANTHA VAN DE MARK,	)	
	)	
Plaintiff,	)	
	)	No. 4:12-CV-618 CAS
v.	)	
	)	
GATEWAY HOTEL HOLDINGS, INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on defendant Gateway Hotel Holdings, Inc.’s motion to compel written discovery answers and production of documents.

Eastern District Local Rule 3.04(A) provides with respect to motions concerning discovery and disclosure:

The 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. This statement also shall recite the date, time and manner of such conference, and the names of the individuals participating therein, or shall state with specificity the efforts made to confer with opposing counsel.

E.D. Mo. L.R. 3.04(A) (emphasis added).

Defendant certified in its motion that it had made a good faith effort to resolve this discovery dispute in that its attorney detailed its objections to plaintiff’s discovery responses in a written letter to plaintiff’s counsel, and “invited Plaintiff’s counsel to call the undersigned to discuss any remaining disagreements.” See Doc. 11 at 1. Despite this written invitation, plaintiff’s counsel did not call defense counsel or otherwise respond to the letter.

The Court has reviewed the correspondence sent to plaintiff's counsel, and it finds defense counsel did not make a reasonable effort to confer in person or by telephone with the opposing counsel, as required by the local rule. The sending of correspondence concerning discovery is insufficient to constitute a good faith attempt to resolve the dispute under the local rule. At the very least, an attempt should be made to telephone opposing counsel. As a result of defendant's failure to comply with Local Rule 3.04(A), the Court will not consider the instant motion and will deny the same without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that defendant Gateway Hotel Holdings, Inc.'s motion to compel is **DENIED without prejudice**. [Doc. 11]



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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 8th day of August, 2012.