

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

ROB CARLSON et al.,

Plaintiffs,

vs.

FEDEX GROUND PACKAGE
SYSTEM, INC., and FEDEX
GROUND PACKAGE SYSTEM,
INC., d/b/a/ FEDEX HOME
DELIVERY,

Defendants.

No. CV-05-85-BU-SEH

ORDER

On September 12, 2012, Special Master, W. Wayne Harper, entered his Findings and Recommendations¹ on Defendant's Renewed Motion to Compel Adequate Responses from Plaintiff Michael Callahan (Callahan). No objections were filed. The Court reviews the Special Master's findings of fact for clear error, and reviews his conclusions of law *de novo*. Fed. R. Civ. P. 53 (f)(3)-(4).

I find no error in the Special Master's Findings and Recommendations and

¹ Document No. 436

adopt them in full.

ORDERED:

1. Defendant's Renewed Motion to Compel Adequate responses of Plaintiff Michael Callahan to Revised Interrogatory Nos. 3, 4, 6 and 7² is GRANTED in part, and DENIED in part, as follows:

- a. The portion of the motion relating to Callahan's response to Interrogatory No. 6 is DENIED as moot as Defendant has acknowledged that Callahan's supplemental response of July 10, 2012, is adequate.
- b. The portion of the motion relating to Callahan's response to Interrogatory No. 7 is DENIED as Callahan's supplemental response of July 10, 2012, is adequate and appropriate.
- c. The portion of the motion relating to Callahan's responses to Interrogatory Nos. 3 and 4 is GRANTED to the extent that Callahan's proof at trial as to matters within the ambit of Interrogatory Nos. 3 and 4 shall be limited to the specific disclosures and responses provided by him as of September 12, 2012. Callahan may not present or offer evidence at trial that alters, contradicts, expands, supplements or

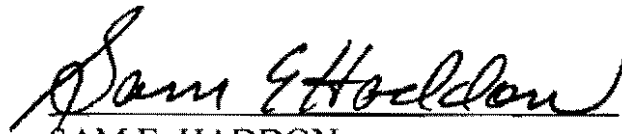
² Document No. 200

otherwise changes such disclosures and responses.

2. The portion of the motion requesting attorney's fees and costs is GRANTED to the extent that Callahan shall pay 10% of the fees and costs Defendant incurred in preparation of the Renewed Motion to Compel.

3. An award of fees and costs will be addressed by further order after all pending motions to compel have been resolved by the Court.

DATED this 5th day of October, 2012.

A handwritten signature in cursive script that reads "Sam E. Haddon". The signature is written in black ink and is positioned above a horizontal line.

SAM E. HADDON

United States District Judge