

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JULIE A. BUSSING,

Plaintiff,

vs.

COR CLEARING, LLC, COR
SECURITIES HOLDINGS, Inc.; CARLOS
P. SALAS, in their Individual Capacities;
and CHRISTOPHER L. FRANKEL, in
their Individual Capacities;

Defendants.

8:12CV238

MEMORANDUM AND ORDER

The plaintiff, while appearing pro se, filed three motions to compel the defendants to provide: 1) a corrected 2012 W-2 form; 2) a correct 2012 1099-Misc form; 3) copies of all employment, benefit, and compliance forms completed during Plaintiff's employment at Legent; 4) check stub information for reconciling the totals reported on the tax forms received; and 5) a statement acknowledging that Defendants' assertion that the Plaintiff received an overpayment is erroneous. (Filing Nos. [48](#), [49](#), and [53](#)). The plaintiff alleges the defendants' refusal to provide the requested information is evidence of the defendants' ongoing retaliatory conduct against the plaintiff. The defendants argue the information requested is not relevant to the claims alleged in Plaintiff's complaint, and that the plaintiff cannot file a motion to compel absent first serving discovery on the defendants.

The defendants moved to dismiss the plaintiff's complaint in August of 2012. (Filing No. [26](#)). Counsel entered an appearance on the plaintiff's behalf on April 5, 2013, (Filing No. [54](#)), and requested leave to file a supplemental brief in opposition to the motion to dismiss. (Filing No. [55](#)). This request was granted, and the motion to dismiss is not yet fully submitted. (Filing No. [59](#)).

A scheduling order was never entered which permitted the parties to begin discovery, (Fed. R. Civ. P. 26(d)), and there is no evidence the plaintiff served discovery on the defendants. The plaintiff must first serve her discovery, and if the defendants fail to respond or adequately respond, she can then move to compel. See Fed. R. Civ. P. 37.

Accordingly,

IT IS ORDERED that the plaintiff's motions to compel, (Filing Nos. [48](#), [49](#), and [53](#)), are denied without prejudice to re-filing, if appropriate, at a later time.

May 20, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge