

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROGELIO YOUNG,

Plaintiff,

v.

EDITH PICKENS,

Defendant.

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DECISION & ORDER

12-CV-6251CJS

Rogelio Young (“Young”), proceeding *pro se*, initiated this lawsuit against various defendants, all of whom have since been dismissed from the action with the exception of defendant Edith Pickens (“Pickens”). (Docket ## 1, 51). The only claim remaining against her is a claim for deliberate indifference in violation of Young’s constitutional rights. (Docket # 33).

By Order of the Hon. Charles J. Siragusa, United States District Judge, dated July 24, 2012, all pretrial matters in the above-captioned case were referred to this Court pursuant to 28 U.S.C. §§ 636(b)(1)(A)-(B). (Docket # 17). Currently pending before the Court is Pickens’s motion to compel Young to respond to her outstanding discovery requests and for monetary sanctions. (Docket # 59). Despite the issuance of a motion scheduling order setting a deadline for Young to respond, Young has neither filed any opposition papers nor otherwise addressed the motion. (*See* Docket # 60).

## DISCUSSION

The discovery requests at issue – defendant Pickens’s Interrogatories and Notice to Produce – have been outstanding for nearly a year. (Docket # 59-1 at ¶¶ 3-6). Through prior counsel, Pickens first attempted to serve the requests on Young by mailing them to his address of record. (*Id.* at ¶ 3). When they were returned as undeliverable, Pickens engaged the City of New York’s Sheriff’s Office to serve them, and they were personally delivered to Young’s residence and accepted by his sister on August 17, 2015. (Docket # 59-4 at 2). They were also mailed to him. (*Id.*) Young did not respond to the requests. (Docket # 59-1 at ¶ 7).

This Court addressed Young’s delinquency at a status conference held on October 14, 2015, and admonished Young concerning the need to respond promptly to the outstanding discovery requests. Counsel for Pickens sent another copy of the requests to Young’s address of record (Docket # 59-5), but contrary to Young’s assurances at the status conference, he did not respond to the requests (Docket # 59-1 at ¶ 9). On February 12, 2016, counsel again wrote to Young addressing the outstanding discovery requests. (Docket # 59-6). The letter advised Young that his failure to respond would result in a formal motion to compel. (*Id.*). This most recent effort was no more availing, and the pending motion ensued.

Young’s prosecution of this case has been characterized by repeated inattention to and disregard of his obligations, resulting in an earlier order to show cause why the case should not be dismissed for failure to prosecute. (*See* Docket # 24). Most recently, he advised the Court on the last business day before his scheduled deposition that he would be unable to attend; counsel generously agreed to Young’s belated request for an extension. (Docket ## 65, 66).

The record before the Court more than adequately justifies the relief sought. If Young intends to pursue his lawsuit, he must comply with his obligations, whether imposed by statute, rule or court order. **Accordingly, Pickens's motion for an order compelling Young to respond to her Interrogatories and Notice to Produce is granted, and Young is directed to do so by no later than July 20, 2016. Young is further admonished, once again, that his unexcused failure to respond by the court-ordered deadline of July 20, 2016 may result in the imposition of sanctions, including, but not limited, to dismissal of his lawsuit.**

Pickens's request for monetary sanctions at this time is denied without prejudice.

#### **CONCLUSION**

For the reasons stated above, Picken's motion to compel and for monetary sanctions (**Docket # 59**) is **GRANTED in part and DENIED in part** as set forth above. Young is directed to respond to the Interrogatories and Notice to Produce by no later than **July 20, 2016**.

**IT IS SO ORDERED.**

*s/Marian W. Payson*

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MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
June 30, 2016