

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-366-D

THE UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

LARRY DARNELL HILL, JR.,)

HILLBOY'S ENTERTAINMENT,)

a/k/a LARRY HILL - HILLBOY'S)

ENTERTAINMENT, d/b/a)

HILL'S TAX SERVICE, and)

CRYSTAL DENISE DICKENS,)

Defendants.)

ORDER

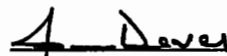
The scheduling order in this action set a deadline for concluding discovery on or before August 10, 2018, and a motions deadline of September 7, 2018. See [D.E. 27]. On April 6, 2018, defendant Hill filed a "Motion in opposition to U.S. Response to Movants Request For Admissions" [D.E. 31], which the court construes as a motion to compel. On April 16, 2018, plaintiff filed a response in opposition [D.E. 32]. The court has reviewed the requests for admission contained in the motion to compel under the governing standard. See Fed. R. Civ. P. 26; Herbert v. Lando, 441 U.S. 153, 177 (1979); Hickman v. Taylor, 329 U.S. 495, 507 (1947); Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va., Inc., 43 F.3d 922, 929 (4th Cir. 1995); Erdmann v. Preferred Research, Inc., 852 F.2d 788, 792 (4th Cir. 1988); LaRouche v. Nat'l Broad. Co., 780 F.2d 1134, 1139 (4th Cir. 1986); Ralston Purina Co. v. McFarland, 550 F.2d 967, 973 (4th Cir. 1977). Hill's requests for admission are frivolous. See, e.g., United States v. Howard, No. CV 07-620 TUC DCB(HCE), 2008 WL 4471333, at *10-11 (D. Ariz. June 25, 2008) (unpublished), report and recommendation

adopted, 2008 WL 3200768 (D. Ariz. Aug. 6, 2008) (unpublished). Thus, the court denies the motion to compel.

On July 16, 2018, plaintiff filed a motion for partial summary judgment [D.E. 36]. On August 2, 2018, Hill filed a declaration pursuant to Federal Rule of Civil Procedure 56(d) [D.E. 42]. Hill asserts that he “has received no discovery that he asked for or a response stating the discovery is not in the possession of the moving party.” Id. at 2. The court directs plaintiff to file a response to the declaration on or before November 16, 2018, which fully describes any discovery requests plaintiff received from Hill and any discovery plaintiff has produced to Hill. Hill shall have until November 30, 2018, to file a reply. There will be no extension of these deadlines. The court stays Hill’s deadline for responding to plaintiff’s motion for summary judgment pending the resolution of Hill’s Rule 56(d) declaration.

In sum, the court DENIES plaintiff’s motion to compel [D.E. 31], and DIRECTS the parties to file responses to this order.

SO ORDERED. This 30 day of October 2018.



JAMES C. DEVER III
United States District Judge