

should be allowed. However, as the additional time sought by Defendant has elapsed, Defendant's motion is denied as moot. While Plaintiff is correct that the court has admonished the parties not to be dilatory in pursuing discovery, Defendant's motion was timely filed and appears to be supported by good cause and not made for an improper purpose. Fed. R. Civ. P. 6(b). Plaintiff fails to identify any order with which Defendant has not complied that would support a finding of contempt. *See Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 821 (4th Cir. 2004) ("A court may impose sanctions for civil contempt to coerce obedience to a court order or to compensate the complainant for losses sustained as a result of the contumacy.") (internal quotation marks and citation omitted). To the extent Plaintiff's motion may be construed as seeking sanctions under Rule 37, Plaintiff has not obtained any order compelling Defendant to respond to Plaintiff's discovery and accordingly cannot show Defendant's non-compliance with such an order. *See* Fed. R. Civ. P. 37(b). Accordingly, Plaintiff's motion to show cause is denied.

B. Plaintiff's Motion to Compel

Plaintiff moves the court to compel Defendant to produce several documents which Plaintiff has described in his motion. Pl.'s Mot. [DE-57]. Plaintiff has neither filed a memorandum setting forth argument in support of his motion nor has Plaintiff included with his motion a copy of the discovery requests at issue or Defendant's alleged incomplete responses or objections thereto. *See id.* Local Civil Rule 7.1 specifically provides that

[n]o discovery motion will be considered by the court unless the motion sets forth or has attached thereto, by item, the specific question, interrogatory, etc., with respect to which the motion is filed, and any objection made along with the grounds supporting or in opposition to the objection.

Local Civ. R. 7.1(c)(2). Plaintiff has failed to attach to his motion to compel any specific discovery request or any incomplete or allegedly evasive discovery response. Rather, Plaintiff's motion only describes in general fashion documents he contends are outstanding. *See* Pl.'s Mot. [DE-57]. Plaintiff's paraphrasing of his discovery requests does not comply with the local rules. *See Rocha v. Coastal Carolina Neuropsychiatric*, No. 7:12-CV-2-D, 2013 WL 1912864, at *2 (E.D.N.C. May 8, 2013) (unpublished). Plaintiff's failure alone will support denial of the motion. *See United States v. \$307,970.00, in U.S. Currency*, 156 F. Supp. 3d 708, 722 (E.D.N.C. 2016); *Artis v. N.C. Dep't of Health & Human Servs.*, No. 5:11-CV-748-BO, 2013 WL 3280240, at *3 (E.D.N.C. June 27, 2013) (unpublished).

Based on the materials the parties have submitted to the court related to this motion, the court is unable to discern with the necessary particularity the discovery requests that are at issue and the grounds for seeking or objecting to such requests. Out of an abundance of caution, the court has reviewed the written discovery requests Plaintiff filed with the court on September 1, 2016. Pl.'s Discovery Reqs. [DE-41]. However, assuming these requests are the ones at issue in the motion, Plaintiff has failed to provide Defendant's alleged inadequate responses for consideration, and the court notes that there appear to be no document requests corresponding to several of the documents Plaintiff describes in his motion as being outstanding. *Compare* Pl.'s Discovery Reqs. [DE-41], *with* Pl.'s Mot. [DE-57] at 2 ¶ 8. The court is loathe to assume that these earlier-filed document requests are indeed the ones at issue here, or that Defendant has failed to provide responsive documents without asserting acceptable grounds for doing so and should therefore be compelled to produce the requested documents. Finally, Defendant has responded that he either has no possession or control of many of the requested documents or that

responsive materials have already been provided. *See* Def.'s Resp [DE-59] at 2 ¶¶ 6-7.

Accordingly, Plaintiff's motion to compel is denied.

C. Plaintiff's Bill of Costs

Plaintiff has submitted a bill of costs as directed by the court after finding that Defendant is subject to paying reasonable expenses pursuant to Rule 37(a)(5)(A). Dec. 28, 2016 Order [DE-52]; Pl.'s Mem. [DE-54]. Defendant responded in opposition to Plaintiff's bill of costs. Def.'s Resp. [DE-58]. The court enjoys broad discretion in imposing sanctions for discovery violations. *See Cook v. Lewis*, No. 5:12-CT-3219-D, 2014 WL 2894999, at *4 (E.D.N.C. June 25, 2014) (unpublished); *SAS Inst. Inc. v. World Programming Ltd.*, No. 5:10-CV-25-FL, 2014 WL 1760960, at *4 (E.D.N.C. May 1, 2014) (unpublished); *Wilson v. ELRAC, Inc.*, No. 5:12-CV-660-F, 2013 WL 5592882, at *12 (E.D.N.C. Oct. 10, 2013) (unpublished). Review of Plaintiff's bill of costs reveals that it lacks the required specificity and supportive documentation to support the award sought. A *pro se* litigant is not free from the obligation of particularizing his costs incurred in order to establish a basis on which the court may rely to fashion an appropriate award of reasonable expenses. *Mazza v. District Council for N.Y.*, Nos. 00CV6854(CLP), 01CV6002(CLP), 2010 WL 2976674, at *2 (S.D.N.Y. July 22, 2010) (unpublished) (citations omitted). Although Plaintiff has failed to provide the court with sufficient documentation of the expenses for which he seeks reimbursement, the court finds that denying Plaintiff any recovery would "disserve the purpose of the expense-shifting provision of Rule 37." *Mazza*, 2010 WL 2976674, at *3 (internal quotation marks and citations omitted). Based on a review of the record, and the court's knowledge of the case, the court finds that Plaintiff is entitled to an award in the amount of \$58.00. This amount will serve the policy interests at issue, consists of the court's

estimate of the cost of round-trip car travel to the courthouse from Plaintiff's record address in Whiteville, North Carolina, and copy costs associated with Plaintiff's motion, for which the Court imposed sanctions. *See id.* (awarding a reasonable estimate of costs to a *pro se* plaintiff pursuant to Rule 37 despite the plaintiff's lack of adequate documentation). The Court declines to include any other claimed expenses because Plaintiff has failed to provide an adequate basis to justify such an award. Defendant shall tender \$58.00 to Plaintiff as soon as possible but no later than May 5, 2017.

D. Conclusion

For the foregoing reasons, Defendant's motion to extend time to complete discovery [DE-53] is DENIED AS MOOT, Plaintiff's motion to show cause [DE-56] is DENIED, and (3) Plaintiff's motion to compel [DE-57] is DENIED.

So ordered, the 5th day of April 2017.



Robert B. Jones, Jr.
United States Magistrate Judge