

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16CV309-GCM

DANNIE MONTGOMERY,)
)
 Plaintiff,)
)
 vs.) ORDER
)
 THE ANSON COUNTY BOARD OF)
 EDUCATION,)
)
 Defendant.)
 _____)

This matter is before the Court upon Defendant’s Notice of Non-Compliance with Order and Renewed Motion to Dismiss (Doc. No. 53) and the Affidavit of Defendant’s counsel in support of fees and costs associated with pursuing its Motion to Compel and conducting a second deposition of the Plaintiff (Doc. No. 52), filed at the direction of the Court.

On November 29, 2017, this Court entered an Order granting Defendant’s Motion to Compel and directing Plaintiff to turn over any outstanding responsive documents to the Defendant within 7 days. (Doc. No. 50) The Order also directed Defendant to submit an Affidavit as to its fees and expenses in connection with filing the Motion to Compel as well as the reconvening and completion of Plaintiff’s deposition. On December 7, the Defendant renewed its Motion to Dismiss asserting that Plaintiff had failed to turn over the documents. In response, Plaintiff’s attorney filed a Declaration in opposition representing that she had submitted the documents to Defendant on December 7, one day after the deadline set by the Court. The Court is reluctant to dismiss Plaintiff’s case because she missed the deadline by one

day. However, the Court shares Defendant's frustration with the Plaintiff's delays in this case. Plaintiff is warned that she is to response to all future deadlines in a timely manner.

The Court has also reviewed the Affidavit of Mr. King and will award the Defendant \$7,132.50 in attorneys' fees and \$778.14 in costs associated with filing its Motion to Compel as well as the reconvening and completion of Plaintiff's deposition.

IT IS THEREFORE ORDERED that Defendant's Notice of Non-Compliance with Order and Renewed Motion to Dismiss (Doc. No. 53) is hereby DENIED; and

IT IS FURTHER ORDERED that Defendant is hereby awarded \$7,132.50 in attorneys' fees and \$778.14 in costs.

Signed: January 11, 2018

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

