

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Elizabeth Mays, and all Others Similarly Situated,	)	
	)	
	)	<b>ORDER</b>
Plaintiffs,	)	
	)	
vs.	)	
	)	
B.H. Enterprises, LLC, et. al.,	)	Case No. 4:14-cv-118
	)	
Defendants.	)	

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Before the court is a “Motion to Compel Discovery” filed by plaintiff on December 10, 2015. The court, in an order dated November 4, 2014, set forth the following procedure for the parties to follow in the event of a discovery dispute:

**RESOLUTION OF DISCOVERY DISPUTES**

[The court] hereby **ORDERS** that the following steps be undertaken by all parties prior to filing any discovery motion.

- 1) The parties are strongly encouraged to informally resolve all discovery issues and disputes without the necessity of Court intervention. In that regard, the parties are first required to confer and fully comply with Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 37.1 by undertaking a sincere, good faith effort to try to resolve all differences without Court action or intervention;
  
- 2) In the event that reasonable, good faith efforts have been made by all parties to confer and attempt to resolve any differences, without success, the parties are then required to schedule a telephonic conference with the Magistrate Judge in an effort to try to resolve the discovery dispute prior to the filing of any motions. The parties shall exhaust the first two steps of the process before any motions, briefs, memorandums of law, exhibits, deposition transcripts, or any other discovery materials are filed with the court.

- 3) If the dispute still cannot be resolved following a telephonic conference with the Magistrate Judge, then the Court (Magistrate Judge) will entertain a motion to compel discovery, motion for sanctions, motion for protective order, or other discovery motions. In connection with the filing of any such motions, the moving party shall first fully comply with all requirements of Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local Rule 37.1 and shall submit the appropriate certifications to the Court as required by those rules.
- 4) The Court will refuse to hear any discovery motion unless the parties have made a sincere, good faith effort to resolve the dispute and all of the above-identified steps have been strictly complied with. A failure to fully comply with all of the prerequisite steps may result in a denial of any motion with prejudice and may result in an award of costs and reasonable attorney's fees

(Docket No. 10). Plaintiff has not strictly adhered to this procedure; it did not contact the court to schedule a conference call prior to filing its motion. Consequently, its motion (Docket No. 20) is **DENIED** without prejudice.

**IT IS SO ORDERED.**

Dated this 11th day of December, 2015.

*/s/ Charles S. Miller, Jr.* \_\_\_\_\_  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court