

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

BLAKE BEST,
Plaintiff,

v.

AT&T MOBILITY, INC.,
Defendant.

Case No. 1:12-cv-564

Beckwith, J.
Litkovitz, M.J.

ORDER

This matter is before the Court following an informal discovery conference held on March 16, 2015. The following items were discussed during the conference.

First, defendant AT&T Mobility, Inc. (AT&T) asserts that plaintiff's responses to its interrogatories were insufficient. Upon review of the documents submitted by AT&T and for the reasons stated during the discovery conference, plaintiff is **ORDERED** to answer AT&T's interrogatories within **thirty (30) days** of the entry of this Order.

Second, AT&T's concerns about plaintiff's failure to submit an expert report consistent with Fed. R. Civ. P. 26(b)(2) are moot in light of plaintiff's representation that he withdraws his designation of Mr. Stacy Scheff as an expert witness in this case.

Third, for the reasons stated during the conference, the Court finds that plaintiff's discovery request for all emails from AT&T executives is overbroad and, consequently, AT&T is not required to respond to this request. To the extent that AT&T objects to plaintiff's requests for customer billing information as irrelevant even as to proving plaintiff's alleged damages, AT&T is **ORDERED** to submit examples of billing records to plaintiff and to the Court prior to the follow-up informal discovery conference with the Court.

Fourth, AT&T represented that it responded to plaintiff's document requests by disclosing approximately 1,000 documents, totaling approximately 10,000 pages, to plaintiff in response to plaintiff's discovery requests. AT&T submitted these documents to plaintiff electronically as word-searchable PDFs and produced excel spreadsheets in native format, including a PDF of a Microsoft Excel spreadsheet of responsive information about the sales of plaintiff's ringtones that AT&T compiled from its internal databases and an electronic copy of this spreadsheet in its native format. AT&T also represented that it provided plaintiff a searchable spreadsheet that provides information about the metadata for the approximately 10,000 pages of documents already produced. As stated during the conference, the Court finds that AT&T's response comports with its obligations under Fed. R. Civ. P. 34(b)(2)(E). Plaintiff is **ORDERED** to review AT&T's initial and supplemental discovery responses and determine what, if any, remaining objections he seeks to assert. Plaintiff **SHALL** contact defense counsel and attempt to resolve his concerns prior to the follow-up informal discovery conference with the Court.

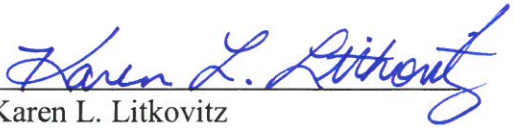
Fifth, plaintiff raised concerns about AT&T's refusal to admit to the authenticity of copies of emails in its responses to plaintiff's requests for admission. As stated during the conference, AT&T's stipulation as to the authenticity of the documents it submitted to plaintiff in discovery (Doc. 224) adequately addresses plaintiff's concerns. In the event plaintiff is unable to find specific documents or emails in the discovery submitted to him by AT&T, plaintiff **SHALL** contact defense counsel to determine whether such documents were not disclosed or, if they were, where they can be located in AT&T's electronic responses.

Finally, the parties shall be prepared to discuss at the next conference the possibility of a referral of this matter to the Court's mediation program whereby a neutral Magistrate Judge unaffiliated with this litigation can assist the parties in reaching a mutually agreeable resolution.

A follow up status conference will be held on **April 7, 2015**, at **2:00 p.m.**

IT IS SO ORDERED.

Date: 3/17/15


Karen L. Litkovitz
United States Magistrate Judge