

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TODD ELLIOTT KOGER,)
)
 Plaintiff,)
)
 v.) Civil Action No. 10-1466
)
)
 ALLEGHENY INTERMEDIATE UNIT,)
 et al.,)
)
 Defendants.)

MEMORANDUM

Gary L. Lancaster,
Chief Judge.

June 17, 2011

This is an employment discrimination action. Plaintiff Todd Elliott Koger, who is proceeding pro se, has filed several motions. Koger has filed a Motion for Enforcement of Subpoenas [doc. no. 54] and a related Motion for Enforcement of Subpoenas and for Sanctions [doc. no. 55]. Koger has also filed a Motion for Judgment on the Pleadings and/or Summary Judgment [doc. no. 56]. For the reasons set forth below, we deny all motions.

Koger contends that the Union Defendants have failed to produce any documents, or file any objection, in response to the subpoenas he issued on November 12, 2010 and April 29, 2011

[doc. nos. 54 and 55]. Although Koger acknowledges that the School District Defendants "provided some materials," he claims that their production contains several deficiencies. Koger seeks "enforcement of the subpoenas" and sanctions preventing all defendants from introducing "untimely things not delivered as required by law." [doc. no. 55 at 7].

We find that neither enforcement of the subpoenas nor sanctions are warranted. The subpoenas attached to the motion are incomplete, as they do not indicate to whom they are directed, nor on whom they were served. In addition, Koger has not attached the November 12, 2010 subpoena to his motion, making it impossible for the court to determine whether or not it has been complied with. Moreover, we note that a subpoena would be unnecessary in order to obtain documents from any of the defendants, as they are parties to this action. Although Koger is proceeding pro se, he must nevertheless adhere to the Federal Rules of Civil Procedure and conduct discovery in accordance with them.

Regardless, it appears that both the School District Defendants and the Union Defendants have considered the subpoenas to be requests for the production of documents to a

party opponent and have responded to them, as well as to Koger's other discovery requests. To the extent either defendant's responses are inadequate, Koger may gather support for his claims during discovery and file a motion to compel, in the proper format, if appropriate.

We will not impose sanctions at this time on either party. Koger has made no showing that the School District Defendants or the Union Defendants have failed to produce documents in their possession, or have otherwise failed to participate in discovery.

Those portions of Koger's motion that discuss the effect of the defendants' evidentiary delinquencies on the substance of this matter, and move for the entry of judgment as a sanction for failing to produce documents, are premature. Discovery is not closed until July 29, 2011. For the same reason we deny Koger's Motion for Judgment on the Pleadings and/or Summary Judgment [doc. no. 56]. As discovery is not yet closed, the court cannot attribute any significance to an alleged lack of evidence. We have previously denied both defendants' motion for summary judgment and Koger's prior motion for judgment on the pleadings [doc. no. 44]. The court has

established deadlines for the filing of dispositive motions in its Case Management Order [doc. no. 45]. Until July 29, 2011, the parties are to engage in discovery. After the close of discovery, we will then consider any properly filed and support dispositive motions.

An appropriate order will be filed contemporaneously with this memorandum.

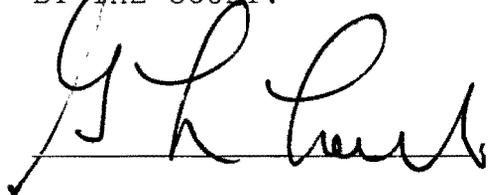
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ORDER

AND NOW, this 17 day of June 2011, IT IS HEREBY ORDERED that Koger's Motions for Enforcement of Subpoenas [doc. no. 54], for Enforcement of Subpoenas and Sanctions [doc. no. 55], and for Judgment on the Pleadings and/or Summary Judgment [doc. no. 56] are DENIED.

BY THE COURT:

 C.J.

cc: All Counsel of Record