

I sent a memorandum to counsel requiring defendant to respond to the motion to compel. Defendant's response does not address the issues raised in the informal conferences, the motion to compel, and my memorandums. Specifically, defendant has not set forth any authority for failing to serve signed responses to plaintiffs' discovery requests nor any explanation for failing to provide discovery promised during the informal conference with the Court.

The defendant has failed to act in good faith and has failed to follow the requirements of the Rules of Civil Procedure. The defendant has engaged in what are frankly dilatory practices. The defendant has interfered with the orderly process of this case. Even at this late date, the defendant has failed to sign and date answers to the interrogatories and to the requests of plaintiffs for discovery. This is not proper conduct.

Sanctions should be imposed against the defendant. The latest motion for a summary judgment filed by the defendant should be stricken without requiring any response to it by plaintiffs. The Court finds that the defendant has failed to act in good faith in supplementing its discovery responses pursuant to Rule 37(c)(1) of the Federal Rules of Civil Procedure. The authority for the sanction is found at Rule 37(b)(2)(A)(i)-(vii). Rule 37(b)(2)(A)(iii) does permit the Court to "strike--pleadings in whole or in part."

The plaintiff should be required to file an affidavit in support of any request for attorneys fees and costs caused by the failure of the defendant to comply with discovery requirements and previous directives of this Court. This filing should be made as directed below.

The motion of the plaintiffs to compel complete responses and answers to the pending discovery requests should be granted.

Good cause appearing,

IT IS ORDERED:

1. Defendant's motion, Doc. 53, for summary judgment is denied.
2. Plaintiffs' motion, Doc. 58, to compel is granted.
3. Defendants shall provide complete, signed, discovery responses on or before

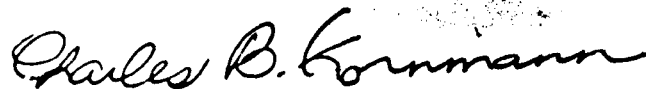
March 15, 2010.

4. Plaintiffs's request for sanctions is granted. Plaintiffs shall file an affidavit in support of attorneys fees and costs caused by defendant's failure to comply with discovery on or before April 1, 2010.

5. Plaintiffs' motion, Doc. 61, to extend the time to respond to the motion for summary judgment is denied as moot.

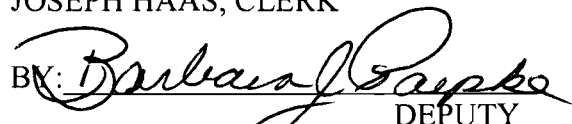
Dated this 1st day of March, 2010.

BY THE COURT:



CHARLES B. KORNMANN
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)