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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COLT BORGESON,

Plaintiff,

v.

C/O REBECCA FARRELL,

Defendant.

Case No. C18-0354-MJP-MAT

ORDER DENYING PLAINTIFF'S
MOTIONS TO COMPEL DISCOVERY
AND FOR PRODUCTION OF
DOCUMENTS

This is a civil rights action proceeding under 42 U.S.C. § 1983. This matter comes before the Court at the present time on plaintiff's motions to compel discovery and for production of documents. The Court, having considered plaintiff's motions, and the balance of the record, hereby finds and ORDERS as follows:

(1) Plaintiff's motion to compel discovery (Dkt. 19) is DENIED. Plaintiff seeks an order compelling defendant Rebecca Farrell to produce documents which plaintiff requested in his first requests for production of documents. He also seeks an award of costs in the amount of \$1500 as reasonable expenses for obtaining an order to compel. Defendant opposes plaintiff's motion to compel on the grounds that plaintiff's motion was premature, that defendant timely provided a response to plaintiff's discovery requests, and that plaintiff failed to make any effort to contact

ORDER DENYING PLAINTIFF'S MOTIONS
TO COMPEL DISCOVERY AND FOR
PRODUCTION OF DOCUMENTS - 1

1 defendant's counsel to discuss the discovery issue before filing his motion. Defendant also
2 opposes plaintiff's request for costs.

3 Pursuant to the Federal Rules of Civil Procedure, a party responding to a request for
4 production of documents must respond in writing within thirty days after being served with the
5 request. Fed. R. Civ. P. 34(b)(2)(A). However, when the last day of a time period specified in the
6 Federal Rules of Civil Procedure falls on a weekend or legal holiday, the period runs until the end
7 of the next day that is not a weekend or legal holiday. Fed. R. Civ. P. 6(a)(1)(C). The record
8 reflects that plaintiff's first requests for production of documents were mailed to defendant on July
9 19, 2018. (*See* Dkt. 21, Ex. 1.) Thus, the thirty day response period would have expired on August
10 19, 2018, but for the fact that that was a Sunday. Under the rules, defendant Farrell's responses
11 were due on Monday, August 20, 2018, and the record shows that defendant did, in fact, provide
12 her responses by that date. (*See id.*, Ex. 2.) Defendant's responses were therefore timely, rendering
13 plaintiff's motion effectively moot.

14 To the extent plaintiff requests an award of costs, his request is frivolous. As defendant
15 correctly points out, plaintiff mailed his motion to compel to the Court on August 17, 2018, days
16 before the responses to plaintiff's discovery requests were even due.¹ (*See* Dkt. 21, Ex. 3.) In
17 addition, the record suggests that plaintiff made no apparent effort to confer with counsel regarding
18 the outstanding discovery requests before filing his motion to compel as is required by Fed. R.
19 Civ. P. 37(a)(1) and Local Civil Rule (LCR) 37(a)(1). Had plaintiff made an effort to resolve the
20 discovery issue as the rules require, he likely would have, or at least should have, discovered that
21 his motion was unnecessary.

22 _____
23 ¹ Plaintiff dated his motion August 18, 2018, but the postmark on the envelope in which he mailed the
motion shows that it was mailed the day before, August 17, 2018. (*See* Dkt. 21, Ex. 3 at 3.)

1 (2) Plaintiff's motion for production of documents (Dkt. 23) is STRICKEN. Plaintiff's
2 motion is, in effect, a discovery request. Discovery requests are not to be filed with the Court. *See*
3 Fed. R. Civ. P. 5(d)(1). Plaintiff must direct his request to the party or entity from whom he wishes
4 to obtain the requested materials in accordance with the Federal Rules of Civil Procedure. *See*
5 Fed. R. Civ. P. 26-36, 45.

6 (3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
7 defendant, and to the Honorable Marsha J. Pechman.

8 Dated this 13th day of September, 2018.

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Mary Alice Theiler
United States Magistrate Judge