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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 CHRISTINE D. HAUCK,

7 Plaintiff,

8 v.

9 PHILLIP D. WALKER, et al.,

10 Defendants.

CASE NO. C13-5729 BHS

ORDER DENYING PLAINTIFF'S
MOTION TO STRIKE AND
GRANTING IN PART AND
DENYING IN PART
DEFENDANTS' MOTION FOR
SANCTIONS AND MOTION TO
COMPEL

11 This matter comes before the Court on Defendants Garry Lucas and Phillip
12 Walker's ("Defendants") motion for discovery sanctions and motion to compel
13 production of discovery responses (Dkt. 95); and Plaintiff Christine Hauck's ("Hauck")
14 motion to strike Defendants' motion (Dkt. 98). The Court has considered the pleadings
15 filed in support of and in opposition to the motion and the remainder of the file and
16 hereby rules as follows:

17 **I. PROCEDURAL HISTORY**

18 On February 9, 2018, Defendants filed a motion requesting sanctions and an order
19 compelling Hauck to respond to certain discovery requests. Dkt. 95. On February 26,
20 2018, Hauck responded and moved to strike Defendants' motion. Dkt. 98. On March 2,
21 2018, Defendants replied. Dkt. 99.
22

1 **II. DISCUSSION**

2 As a threshold matter, Hauck moves to strike Defendants’ motion asserting that
3 they failed to confer with her regarding the merits of the motion before filing the motion.
4 Dkt. 98 at 2. The Court disagrees because defense counsel certified in the motion that he
5 attempted to meet and confer and submitted an email to Hauck requesting a conference
6 on these discovery issues. Dkts. 96 at 2, 96-6 at 2. In response, Hauck fails to recognize
7 Defendants’ reference to the email or the email itself. Despite Hauck’s repeated
8 assertions that Defendants failed to meet and confer, the Court finds that Defendants have
9 submitted sufficient evidence to establish an attempt to meet and confer. Therefore, the
10 Court denies Hauck’s motion to strike.

11 Regarding the merits, Defendants have established that Hauck has repeatedly
12 failed to comply with her discovery obligations. The only remaining question is the
13 appropriate sanctions. Defendants request dismissal of Hauck’s claims for damages
14 relating to lost employment opportunities, reasonable attorney’s fees of \$1,000 for time
15 spent on numerous motions relating to this discovery, and any other sanction that the
16 Court deems appropriate. Dkt. 95 at 9. First, the Court agrees that dismissal of Hauck’s
17 claims for lost employment opportunities and/or lost wages is appropriate. In fact, Hauck
18 declares that “she had not made a claim alleging any injury resulting in the loss of
19 earnings.” Dkt. 98-1 at 7. To the extent such a claim was included in Hauck’s
20 complaint, the claim is dismissed. Fed. R. Civ. P. 37(b)(2)(A)(v) (court may dismiss
21 action in part).

1 Second, the Court agrees that minimal monetary sanctions are appropriate. The
2 Court has been extremely lenient on this issue and has even deferred ruling on monetary
3 sanctions multiple times. Defendants are entitled to some compensation for their
4 multiple attempts to receive adequate responses, especially in light of Hauck's continued
5 defiance and refusal to even meet and confer to resolve these issues without formal
6 motions. Therefore, the Court awards Defendants \$1,000 in reasonable expenses.

7 Finally, the Court finds that no other sanctions are appropriate at this time. If
8 Hauck attempts to rely on evidence at trial that was not properly produced during
9 discovery, then Defendants may request that the evidence be excluded. In light of the
10 facts of this proceeding and at this late of date, the Court finds that an order requiring
11 further production would be futile. Thus, the Court denies additional sanctions and
12 Defendants' request for an order compelling overdue production.

13 III. ORDER

14 Therefore, it is hereby **ORDERED** that Defendants' motion for discovery
15 sanctions and motion to compel production of discovery responses (Dkt. 95) is
16 **GRANTED in part** and **DENIED in part** as stated herein and Hauck's motion to strike
17 (Dkt. 98) is **DENIED**.

18 Dated this 4th day of April, 2018.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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