

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ANDERSON R. DaSILVA,

**Plaintiff,**

v.

**Case No. 14-CV-812**

CAPTAIN RYMARKIEWICZ, *et al.*,

**Defendants.**

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**ORDER**

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*Pro se* plaintiff Anderson DaSilva, a Wisconsin state prisoner, filed a “Motion for an Order Compelling Discovery.” (ECF No. 40.) He asks the court to order defendants to respond to his requests for production seeking films and photographs. The court will deny the motion because DaSilva failed to follow the Federal Rules of Civil Procedure and the Civil Local Rules for this district.

Although Federal Rule of Civil Procedure 37 permits the court to compel discovery, the party seeking such discovery must complete several steps before court intervention is appropriate. First, the party seeking discovery must direct his discovery requests to the opposing party, not to the court. DaSilva filed his “Request for Production of Documents” with the court on June 17, 2015 (which he was not required


to do), but it is unclear whether he also served the requests on defendants as required by Federal Rules of Civil Procedure 26, 33, and 34. The court reminds DaSilva that, ideally, discovery should proceed without the court's involvement; filing discovery requests with the court (as opposed to serving the requests directly upon the defendants) will not trigger the defendants' obligation to respond.

If a party serves discovery on an opposing party and the opposing party fails to timely or sufficiently respond, the requesting party must then confer with the opposing party (by letter is acceptable) and attempt to resolve any dispute regarding the responding party's responses. Civ. L.R. 37 (E.D. Wis.). If the requesting party is still unable to obtain the information sought, he may then file a motion to compel discovery with the court pursuant to Fed. R. Civ. P. 37(a).

In the event it is necessary to file a motion to compel with the court, the moving party must include in his motion to compel a written certification as set forth in Civil Local Rule 37. Specifically, he should explain that he conferred or attempted to confer in good faith with the opposing party in an effort to obtain the discovery without court action; however, the parties were unable to resolve their dispute. Civ. L.R. 37. The statement must recite the date the movant conferred or attempted to confer with the opposing party as well as the names of who the movant contacted in an attempt to reach a resolution. A detailed explanation of the party's dispute will also assist the court in making its decision.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the plaintiff's motion for an order compelling discovery (ECF No. 40) is **denied**.

Dated at Milwaukee, Wisconsin this 28th day of July, 2015.

  
WILLIAM E. DUFFIN  
U.S. Magistrate Judge