

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ANTHONY B. STELTER,

Plaintiff,

v.

Case No. 14-cv-904-pp

**ANTHONY MELI,
RANDY VANDE SLUNT,
BELINDA SCHRUBBE,
PAULA TIRAVEECULA,
JAY CERNY, and
CORY SABISH,**

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL (DKT. NO. 58)

On October 15, 2015, the plaintiff filed a motion to compel the defendant to produce the results of an MRI he underwent on August 26, 2015. Dkt. No. 58. He also asks the court to order that all tests or lab results done from now on be provided to him in a timely manner. Id.

Under Federal Rule of Civil Procedure 37, a party may file a motion to compel discovery where another party fails to respond to interrogatories or requests for production of documents. See Fed. R. Civ. P. 37(a)(3)(B)(iii) and (iv). The movant “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” Fed. R. Civ. P. 37(a)(1). Additionally, Civil Local Rule 37 requires the movant to “recite the date and time of the conference or conferences and the names of all parties

participating in the conference or conferences.” A motion to compel discovery pursuant to Rule 37(a) is addressed to the sound discretion of the trial court. EEOC v. Klockner H & K Machines, Inc., 168 F.R.D. 233, 235 (E.D. Wis. 1996) (citation omitted).

What this means is that, if a party wants the other side to give him certain discovery, he first must ask the other side for it (complying with discovery procedures in the Federal Rules of Civil Procedure listed above). If the other side doesn't give the requesting party what he's asking for, the requesting party must try, in good faith, to discuss the issue with the other side. He must ask why they won't give him what he's asking for, and see if there's anything he can do to address their concerns so that they can give him what he's asking for. Only if the requesting party has (a) made a proper request, (b) had the other side refuse to comply with it, and (c) made a good-faith effort to work out the dispute may the requesting party file a motion to compel. And the requesting party has to attach to the motion to compel the certification discussed above—the one that says that he made that good-faith effort. It doesn't appear that the plaintiff has done any of that here. His motion doesn't indicate that he made a proper discovery demand to defendant Schrubbe, asking for the MRI results and documentation. He doesn't indicate that the defendant refused to turn over the information. And he doesn't indicate that he made a good-faith effort to communicate with the defendant about getting the documents.

For these reasons, the court **DENIES** the plaintiff's motion to compel. Dkt. No. 58. The plaintiff is free to ask the defendant for the information he seeks.

Dated in Milwaukee, Wisconsin this 14th day of December, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge