

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

LABORERS LOCAL 236, AFLO-CIO  
AFSCME LOCAL 60, AFL-CIO and  
JAMIE O'BRIEN,

Plaintiffs,

v.

OPINION AND ORDER

11-cv-462-wmc

SCOTT WALKER, JAMES R. SCOTT,  
JUDITH NEWMANN and RODNEY G.  
PASCH,

Defendants.

---

The court is in receipt of the motion of plaintiffs Laborer Locals 236, AFLIO-CIO AFSCME Local 60, AFL-CIO and Jamie O'Brien seeking to appeal Magistrate Judge Crocker's order denying plaintiffs' motion to compel discovery. (Dkt. #39.) Specifically, plaintiffs object to Judge Crocker's denial of discovery "related to the intended effect of Act 10, the alleged compelling interest for enacting Act 10, and less restrictive alternatives that may have been available." (*Id.*)

Federal Rule of Civil Procedure 72(a) governs this court's review of Judge Crocker's order, and provides in pertinent part:

When a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, . . . [t]he district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

Judge Crocker denied the plaintiffs' motion during a telephonic hearing and that same day entered the following text order:

At a December 7, 2011 telephone hearing, the court denied plaintiffs' motion to compel discovery (dkt. #33) for reasons stated. If plaintiffs intend to appeal this decision they must do so not later than their deadline to respond to defendants' motion to dismiss and *must order a copy of the hearing transcript for the record*. Defendants may respond to any appeal not later than their deadline to reply in support of their dismissal motion. The court moved plaintiffs' response/appeal deadline to December 19, 2011 and moved defendants' reply/response deadline to December 30, 2011. Each side will bear its own costs on this motion.

(Dkt. #37.)

In filing its motion, plaintiffs failed to submit the hearing transcript, even after defendants raised this issue in their opposition brief. At plaintiffs' own choosing, therefore, the court has no means to review Judge Crocker's decision, much less to determine whether it is clearly erroneous or contrary to law. Accordingly, the court will DENY plaintiffs' motion to compel discovery.

Entered this 8th day of February, 2012.

BY THE COURT:

/s/

---

WILLIAM M. CONLEY  
District Judge