

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

DAMIEAN DEVON TOLSON,

Plaintiff,

v.

Case No. 1:13-cv-01045-JDT-egb

TOMEKA MCKINNIE,  
*Case Manager,*

Defendant.

---

**ORDER**

---

Presently before the Court is Defendant's Motion to Compel [D.E. 38]. Defendant has moved that this Court enter an order requiring Plaintiff to submit responses to Defendant's Interrogatories and Requests for Production of Documents. Additionally, Defendant requests reasonable expenses incurred in preparing this Motion, including attorney's fees pursuant to Rule 37(a)(5)(A) of the Federal Rules of Civil Procedure. The Motion has been referred to the Magistrate Judge for determination.

Plaintiff has responded in opposition of the Motion, with a host of complaints, including that he never received the requests, that Plaintiff is unable to access information from prison, that they are identical to the requests in case 13-1073, and that the requests as a whole are too broad.

The Federal Rules of Civil Procedure require a party to respond to interrogatories within 30 days of service, unless a shorter or longer time is ordered by the court or agreed to by

stipulation. See Fed. R. Civ. P. 33(b)(2). The rule governing requests for production of documents mirrors the rule covering interrogatories. See Fed. R. Civ. P. 34(b)(2)(A). Failure to timely object results in a waiver of any objection. See Fed. R. Civ. P. 33(b)(4). The Rules allow the party seeking discovery to file a motion to compel when the other party fails to respond to its discovery requests. See Fed. R. Civ. P. 37.

Plaintiff's failure to respond to the requests, and his wholesale objection to the discovery requests in response to the Motion to Compel, is not well-taken.

Based upon the information before the Court, Plaintiff is ordered to provide responses to Defendants' Interrogatories and Requests for Production of Documents, without objection, within seven (7) days of the receipt of this Order. Defendants' request for expenses, including attorney's fees, is denied, as the Magistrate Judge finds that the circumstances make an award of expenses unjust.

Should the Plaintiff not comply with the Court's order, Plaintiff is warned that he shall face additional sanctions including, but not limited to, the dismissal of this action pursuant to Rule 37(b)(2) of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED** this 6<sup>th</sup> day of January, 2015.

**s/Edward G. Bryant**  
UNITED STATES MAGISTRATE JUDGE