

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE

SAMUEL K. LIPARI (Statutory Trustee of Dissolved Medical Supply Chain, Inc.))	
)	
Plaintiff <i>pro se</i> ,)	
)	Case No. 0616-CV07421
v.)	
GENERAL ELECTRIC COMPANY, et al.,)	Division 2
)	
Defendants.)	

GENERAL ELECTRIC COMPANY, GENERAL ELECTRIC CAPITAL BUSINESS
ASSET FUNDING CORP. AND GE TRANSPORTATION SYSTEMS GLOBAL
SIGNALING, L.L.C.'S SUGGESTIONS IN OPPOSITION TO PLAINTIFF'S
"SECOND MOTION TO COMPEL DISCOVERY UNDER RULE 61.01"
FILED APRIL 16, 2007

Defendants General Electric Company, General Electric Capital Business Asset Funding Corp. and GE Transportation Systems Global Signaling, L.L.C. (the "GE defendants") submit these suggestions in opposition to plaintiff's "Second Motion to Compel Discovery Under Rule 61.01" filed on April 16, 2007. Plaintiff's motion should be denied because the motion fails to comply with the Rules of this Court, fails to put before the Court the requests at issue, and fails to demonstrate that any of the objections raised by the GE defendants should be overruled.

STATEMENT OF THE CASE

This breach of contract suit was filed by Mr. Lipari on March 28, 2006. The case was removed to federal court on July 17, 2006, but was remanded to this Court on November 29, 2006. Plaintiff's sole claim is for breach of a contract related to an alleged purchase agreement for a building located at 1600 N.E. Colorado Drive, Blue Springs, Missouri. Plaintiff claims damage in the amount of \$450,000,000.00.

PRIOR DISCOVERY DISPUTES

Plaintiff previously filed motions to compel production, which were denied by the Court on March 14, 2007. The Court's Order noted that plaintiff's motions had failed to comply with Supreme Court Rule 61.01 and with Local Rules 32.2.4, 32.2.5 and 33.5.

DISCOVERY SOUGHT

Plaintiff served three separate document requests on the GE defendants, containing a total of 52 requests. The GE defendants raised multiple objections to most, but not all, of the discovery requests because of the inappropriate nature of the requests. Plaintiff's present motion does not identify which of the 52 requests are at issue, nor has plaintiff put the requests at issue before the Court.

CITATIONS AND ARGUMENT

Plaintiff's present motion should be denied, because, like plaintiff's previous motions, the motion fails to comply with Supreme Court Rule 61.01 and with Local Rules 33.2.5 and 33.5. Plaintiff's motion obviously fails to comply with Local Rule 32.2.5, which constitutes sufficient grounds for denying the motion. Moreover, the motion does not properly identify or put before the Court either the requests at issue or the objections that were raised with respect to those requests. In addition, plaintiff's letter attached as Exhibit 1 to plaintiff's motion is not in compliance with Local Rule 33.5 and, like the motion, gives no clue as to which specific requests or objections are at issue. The response to that letter, a poor copy of which was attached as Exhibit 2 to the motion, noted this and concluded: "The defendants have fully responded to your discovery requests, and your letter raises no issue with any of the objections that were raised. If you wish to discuss any issue you have with the objections asserted or you believe the

referenced documents have not previously been produced, please advise.” In response, plaintiff filed the present motion.

As the party seeking discovery, the burden is on plaintiff to establish the relevancy, materiality, and non-privileged status of any documents sought in discovery. *State ex rel. Syntex Agri-Business Inc. v. Adolf*, 700 S.W.2d 885, 887 (Mo. App. 1985). By failing to properly identify and put before the Court any of the document requests or the objections, plaintiff’s motion does not begin to carry this burden.

It is difficult, if not impossible, for the GE defendants to respond to the merits of plaintiff’s motion because the GE defendants are uncertain what specific requests plaintiff is actually contesting. Plaintiff makes unsubstantiated assertions and also complains generally about not having received documents or a privilege log. However, plaintiff’s requests were in large part objectionable, and plaintiff has raised no issue concerning those objections.

With respect to plaintiff’s assertion about a privilege log, the GE defendants note that one of plaintiff’s document requests was denominated as a “Request for Production of Attorney Client Privilege Documents.” Plaintiff sought, in seven separate requests, every piece of paper (electronic or otherwise) that was generated by or sent to the GE defendants’ attorneys as it pertained to ongoing litigation with the plaintiff or his company. Not surprisingly, the GE defendants objected to the requests on multiple grounds, including attorney-client communications and work product. To require the GE defendants to catalogue every communication or interaction with their counsel after threatened litigation or the commencement of litigation would be unduly burdensome and is not what is contemplated by a privilege log. Plaintiff’s request would require the GE defendants to go back years and years to unearth all such communications (which began after the threat of litigation) and then update the log every

time counsel forwarded new information or materials to his client. Such a request would be prohibitively expensive and time consuming. More importantly, if counsel were obligated to log each and every time it communicated with the client after the threat or the filing of suit, it would effectively chill the ongoing discourse that is necessary between client and counsel to insure effective representation.

CONCLUSION

Plaintiff's motion does not comply with Supreme Court Rule 61.01 and violates the Local Rules of this Court. Plaintiff's motion fails to properly identify any of the requests and objections at issue. Plaintiff's motion should therefore be denied.

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AND GE TRANSPORTATION SYSTEMS
GLOBAL SIGNALING, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was forwarded this 30th day of April, 2007, by first class mail, postage prepaid to:

Samuel K. Lipari
297 NE Bayview
Lee's Summit, MO 64064

