

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

SAMUEL K. LIPARI,	)	
	)	
	)	Plaintiff,
	)	
v.	)	Case No. 07-CV-02146-CM-DJW
	)	
U.S. BANCORP, and	)	
	)	
U.S. BANK NATIONAL ASSOCIATION,	)	
	)	
Defendants.	)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S  
OBJECTION TO MAGISTRATE ORDER  
COMPELLING DISCOVERY AND SANCTIONING THE PLAINTIFF**

Defendants U.S. Bancorp and U.S. Bank National Association, by and through counsel, file this Response to the Plaintiff's Objection to the Magistrate's Order Compelling Discovery and Sanctioning the Plaintiff. The Magistrate's Order was correct on all accounts and should be upheld in its entirety.

As noted in the Magistrate's Order, the plaintiff failed to serve any response to plaintiff's Motion to Compel. This alone is sufficient justification for the Magistrate's ruling. *See*, D. Kan. R. 7.4. Nonetheless, the plaintiff contends that despite not serving any responses to defendants' Requests for Production, he as provided all responsive documents in a voluminous settlement package. Plaintiff's arguments fail for two reasons.

First, plaintiff did not assert this argument before the Magistrate's ruling. If the plaintiff believes he has sufficiently responded to defendants' discovery requests, he should have filed a response to the Motion to Compel asserting these arguments. But he did not do so and may not assert them here for the first time.

Next, even if plaintiff had asserted this argument, service of his argumentative settlement brief (which exceeds 500 pages) does not relieve plaintiff of his responsibility to respond to defendants' properly served discovery requests. In the context of discovery responses, courts in this District recognize that a party must specifically identify which documents are responsive to a particular request. *See, e.g., Johnson v. Kraft Foods North America, Inc.*, 236 F. R. D. 535, 541 (D. Kan. 2006). Therefore, even if plaintiff's settlement brief contains some relevant information, mere service of it is still non-responsive because it does not delineate which documents are supposedly responsive to which requests.

The plaintiff makes further accusations that the defendants have failed to comply with his discovery requests. These are false. While the plaintiff has submitted Requests for Production to the defendants, the defendants timely filed a Motion for Protective Order which is currently pending before this Court. Likewise, defendants also made formal objections to each of plaintiff's discovery requests. The plaintiff failed to challenge these objections within the time frame set forth in D. Kan. Rule 37.1, and has therefore waived his ability to do so.

But despite the objections and Motion for a Protective Order, the defendants still made a good faith effort to search for responsive information and have produced responsive non-privileged documentation where they could reasonably do so. Therefore, the defendants have fully complied with their obligations under the rules of this Court and the Federal Rules of Civil Procedure.

The plaintiff has failed to show any justification for the District Court to overrule the Magistrate's Order. For the above-stated reasons, the defendants request the District Court fully uphold the Magistrate's Order compelling production of documents and sanctioning the plaintiff, and further grant defendants what other relief to which they are justly entitled.

