

MATTHEW O'REILLY

Plaintiff,

v.

WASTE MANAGEMENT, *et al.*

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No.: C-02-CV-24-000546

* * * * *

WM DEFENDANTS’ OPPOSITION TO PLAINTIFF’S MOTION TO COMPEL

Defendants Waste Management, Inc., Adam Tsottles, Roy Palmer, and Waste Management of Maryland, Inc. (collectively, “WM Defendants”), by and through their undersigned counsel and pursuant to Maryland Rules 2-311(b) and 2-432, hereby file this Opposition to the Motion to Compel filed by Plaintiff Matthew O’Reilly (“Motion” or “Motion to Compel”).

INTRODUCTION

In his Motion to Compel, Plaintiff portrays himself as a reasonable litigant, making efforts to ease the burden of discovery on the WM Defendants. The problem with the picture that Plaintiff attempts to paint is that it is predicated upon misstatements of fact and mischaracterizations of the discovery proceedings. Plaintiff threatened to seek sanctions before the WM Defendants’ discovery responses were even due. Plaintiff agreed to grant the WM Defendants an extension to respond to his onerous discovery requests—but only if the WM Defendants waived their personal jurisdiction defense. Plaintiff demanded immediate production of the WM Defendants’ documents in response to 110 document requests. The list goes on. With the full picture in focus, Plaintiff’s conduct is anything but cooperative.

The WM Defendants have complied (and continue to comply) with their discovery obligations. This includes serving timely written responses to 241 discovery requests, including

objections to requests where appropriate, and making a rolling document production, all during the pendency of the WM Defendants' credible motion to dismiss. Moreover, the WM Defendants have attempted to work with Plaintiff to resolve potential discovery disputes without court intervention, but he has rebuffed any reasonable proposals. As evidenced by his demands, Plaintiff refuses to accept the fact that collecting, reviewing, and producing documents takes time, and that the WM Defendants will not waive their (meritorious) defenses to his meritless claims.

This entire lawsuit—starting with the initial Complaint and continuing with Plaintiff's conduct in discovery—is designed to harass the WM Defendants. The Motion to Compel is no different. Moreover, the Motion rests on vague generalizations and does not articulate what discovery he seeks to compel, why certain documents sought are relevant, or why the WM Defendants' responses or objections are improper. In doing so, it fails to identify any discovery violations by, or discovery that should be compelled from, the WM Defendants. As such, the Motion to Compel should be denied.

PROCEDURAL BACKGROUND

A thorough background of the case can be found in the WM Defendants' Motion to Dismiss Second Amended Verified Complaint filed on August 15, 2024, which is incorporated herein by reference. A summary is set forth herein to contextualize the Plaintiff's arguments regarding discovery.

A. The October 16, 2017 Incident and Resulting Criminal Charges Against Plaintiff

On October 16, 2017, two Waste Management of Maryland, Inc. ("WMMD") employees, Roy Palmer, a collection truck driver, and Henry Prioleau, a waste management professional, were collecting and picking up municipal waste in accordance with Baltimore City Regulations. When they collected trash before 10:00 am at an apartment complex where Plaintiff was staying, Plaintiff

instigated an altercation with Mr. Palmer and Mr. Prioleau and assaulted Mr. Prioleau. Adam Tsottles, a WMMD Senior Route Manager, filed charges against Plaintiff with the Baltimore City Police Department. Plaintiff was charged with second-degree assault, malicious destruction of property, and attempted theft. Plaintiff accepted an Alford plea to the charge of second-degree assault of Mr. Prioleau.

B. The Federal Action

Rather than accepting the Alford plea and moving on, on November 27, 2018 Plaintiff initiated a frivolous lawsuit in the United States District Court for the District of Maryland, styled as *O'Reilly v. Tsottles, et al.*, No. CV GLR-18-3622 (the “Federal Action”). The thirty-three-count complaint asserted causes of action against Waste Management, Inc. (“WMI”) and Mr. Tsottles. On May 13, 2019, WMI and Mr. Tsottles moved to dismiss the complaint in the Federal Action. On March 20, 2020, the District Court issued a memorandum opinion and order, granting the motion and dismissing the Federal Action in its entirety. On July 21, 2020, Plaintiff filed a Motion to Reconsider, Vacate Dismissal, Reopen Case, and Leave to Amend Complaint (“Motion to Reconsider”), seeking reconsideration of the dismissal order and leave to file an amended complaint. On February 8, 2021, the District Court denied the Motion to Reconsider. On appeal, the United States Court of Appeals for the Fourth Circuit affirmed the District Court’s orders, and Plaintiff’s petition to the United States Supreme Court for a writ of certiorari was rejected as untimely.

C. The Instant Action

On March 4, 2024, Plaintiff initiated this latest action by filing a thirty-four count Complaint in the Circuit Court of Maryland for Anne Arundel County. As Plaintiff admits, the Complaint is “functionally identical” to the one filed in the Federal Action.

On May 30, 2023, WMI, Mr. Tsottles, and Mr. Palmer moved to dismiss the Complaint. The WM Defendants argued that dismissal is appropriate because (a) WMI is not subject to personal jurisdiction in Maryland, (b) the Complaint was not properly served upon them, and (c) the Complaint fails to state a claim upon which relief can be granted. *Id.*

D. Plaintiff’s Amended Complaint and Burdensome Discovery Requests

On June 16, 2023, Plaintiff filed the Amended Complaint, substituting John Doe with Tamala Oates-Forney and adding a handful of inconsequential allegations relating to the purported accrual of the causes of action. Otherwise, the Amended Complaint asserted the same thirty-four causes of action, subject to dismissal on the same grounds. Accordingly, on July 1, 2024, the WM Defendants moved to dismiss the Amended Complaint on the same grounds as the original Complaint. On July 15, 2024, the Court issued a Scheduling Order in this case. On July 24, 2024, the Court set the motion to dismiss for a hearing on August 26, 2024.

Just two days after the Motion to Dismiss was scheduled for a hearing, Plaintiff served voluminous and onerous discovery on the defendants. Plaintiff served 110 document requests and 134 requests for admissions on the WM Defendants. True and accurate copies of Plaintiff’s Requests for Production of Documents and Requests for Admission are attached hereto as **Exhibit A** and **Exhibit B**, respectively. The WM Defendants’ responses were due on August 26, 2024—the day of the hearing on the WM Defendants’ Motion to Dismiss. *See* Md. Rule 2-422(c); Md. Rule 2-424(b).

Plaintiff asserts that the discovery requests were “curated and tailored as much as practical to ensure that all requests are relevant to the causes of action in the complaint, or the defenses raised.” *See* Mtn. at 4 (also contending that the requests were limited “to those documents and admissions at direct issue in this case, and proportionate to the claims at issue.”). However, even

a cursory review of the requests proves otherwise. Not only are the Plaintiff's requests voluminous, but they far exceed the permissible scope of discovery. Many of the document requests bear no relation to the case, and they seek documents through the present even though the incident at issue occurred in 2017. For example, among his 110 document requests, Plaintiff seeks the following:

1. "Any video surveillance or imaging at 9E33rd," without any time or subject matter limitations. Document Requests, Ex. A at Request 11.
2. Essentially every document Mr. Tsottles or Roy Palmer are mentioned in or prepared, without any time or subject matter limitations. *Id.* at Request 26.
3. "All documents and/or contents (including private messages or hidden or restricted content) of any social media accounts under the ownership or control of Tsottles or Palmer between January 2017 and the present." *Id.* at Request 27.
4. Documents regarding Mr. Tsottles' employment, including his application, documents regarding his interview, employment history, and payroll and benefits records. *Id.* at Requests 43-47, 51, 53-54.
5. Mr. Tsottles' medical information, including "[a]ll medical documentation in your possession regarding his health, including but not limited to any physicals, drug testing, vision testing, etc. or physical condition at any time while affiliated with WM." *Id.* at Request 48.
6. Mr. Tsottles' "entire drug and alcohol file including, but not limited to, pre-employment, post-occurrence, random, reasonable suspicion and return to duty drug and alcohol testing results." *Id.* at Request 52.
7. "Any and all records of health insurance claims, disability claims, sickness or doctors' excuses or the entire medical records chart for three (3) years prior to the occurrence." *Id.* at Request 55.
8. And a vague, catch-all request for "any other file or documents regarding the Defendants not previously requested above." *Id.* at Request 62.

Furthermore, Plaintiff requested that the WM Defendants admit to a litany of obviously disputed,¹ and often irrelevant, list of admissions, such as:

1. “Waste Management, Inc. does business in Maryland,” which is (i) not true, and (ii) contradictory to WMI’s (meritorious) defense of lack of personal jurisdiction. Ex. B at Request 2.
2. “Palmer knew some of the information he communicated to Tsottles was false,” without specifying the purportedly false information. *Id.* at Request 55.
3. “Tsottles was in possession of information that would have caused him to know the allegations were false,” again without specifying the purportedly false information. *Id.* at Request 66.
4. “Persons at 99E33rd viewed the recordings from 99E33rd,” without specifying who the “persons” are and what recordings they allegedly watched. *Id.* at Request 89.
5. “Mr. O’Reilly’s personal standing and reputation was harmed as a result of the words and action of Tsottles and Palmer.” *Id.* at Request 116.
6. “Mr. O’Reilly has been harmed as a result of the actions [and inactions] of Tsottles,” Mr. Palmer, WMMD, Capstone On-Campus Management, Beatty Management, WMI. *Id.* at Requests 121-132.

E. WM Defendants’ Motion for Protective Order, Plaintiff’s Second Amended Complaint, and the Motions to Dismiss Second Amended Complaint

Given the volume of discovery, pending dispositive motion, and the scheduled motion to dismiss hearing, the WM Defendants asked the Plaintiff for an extension of time for responding to the discovery. Plaintiff refused. As such, on August 1, 2024, the WM Defendants filed a Motion for Protective Order to Temporarily Stay Discovery (“Motion for Protective Order”), asking the Court to stay discovery during the pendency of the motion to dismiss.

On August 2, 2024, Plaintiff filed a Second Amended Complaint. Therein, Plaintiff added a few more inconsequential allegations largely unrelated to the WM Defendants. As a result of

¹ Indeed, Plaintiff recognizes that the requested admissions are “limited mostly to the dispositive elements of the causes of action or defenses raised.” Mtn. at 4.

the filing, the motion hearing was cancelled. On August 15, 2024, the WM Defendants filed a second renewed motion to dismiss. On the same day, the Motion for Protective Order was denied. Thereafter, the Plaintiff refused to agree to an extension.

During this time, Plaintiff advised that he needed certain of the discovery sought in order to identify experts by the September 13, 2024 disclosure deadline. To address that concern, WM Defendants' counsel offered to jointly request that the Court modify certain of the discovery deadlines, particularly given the pending motions to dismiss, in exchange for his agreement to extend the discovery response deadline. Plaintiff agreed to the concept and counsel drafted a motion, which was approved and joined by the other defendants. When WM Defendants' counsel presented it to Plaintiff, he deleted the portion of the motion regarding extending the time for the defendants to respond to his discovery requests. *See Exhibit C*.² Plaintiff's suggestion that he was willing to extend the response deadline is patently false—as is Plaintiff's contention that “the WM Defendants withdrew.” Mtn. at 5.

F. The WM Defendants Serve Written Discovery Responses; Plaintiff Immediately Threatens Motions Practice and Sanctions, then files a Motion to Compel

On August 23, 2024, the WM Defendants served written responses to Plaintiff's nearly 250 discovery requests. True and accurate copies of the WM Defendants' Responses to Plaintiff's Requests for Production of Documents and Requests for Admission are attached hereto as Exhibit D and Exhibit E, respectively. The written responses were served three days before they were due. Consistent with typical discovery practice, the WM Defendants responded and objected to Plaintiff's discovery requests. The WM Defendants informed Plaintiff that they would make rolling document productions as they collected and reviewed documents. On August 26, 2024 (the

² Exhibit C is a red-line prepared by undersigned counsel, showing Plaintiff's edits to the pleading.

day the WM Defendants' discovery responses were due), the WM Defendants made their first document production.

Immediately, on August 26, 2024, Plaintiff emailed the WM Defendants' counsel about perceived deficiencies in the WM Defendants' discovery responses. Rather than alleging specific deficiencies and seeking to resolve a potential discovery dispute in good faith, Plaintiff immediately threatened to seek court intervention writing,

This email is just an informal courtesy to let you know that I will be filing a motion to compel for both the admissions and document requests shortly, and given the short timeline we have, it will have to include a request for sanctions based on your clients' refusals.

See August 2024 Email Chain, attached hereto as **Exhibit F**.

In the five days that followed, the Plaintiff and WM Defendants exchanged a litany of discovery correspondence. *See id.*; Plaintiff's August 27 Letter, attached hereto as **Exhibit G**; WM Defendants' August 29 Letter, attached hereto as **Exhibit H**; Plaintiff's August 29 Letter, attached hereto as **Exhibit I**; WM Defendants' September 2 Discovery Letter, attached hereto as **Exhibit J**; September 2024 Email Chain, attached hereto as **Exhibit K**.

In the flurry of correspondence, the Plaintiff presented the WM Defendants with four demands to meet in order to avoid his immediate filing of a motion to compel. Plaintiff characterizes these demands as "a few inexpensive, readily-available, and low-lift items."³ Mtn. at 2, 3 (describing the demands as "low-cost, easily-provided, relevant items already in [the WM Defendants'] possession"). In reality, Plaintiff requested that the WM Defendants admit that WMI does business in Maryland based off of Plaintiff's strained interpretation of a CNN Money

³ Plaintiff omits all but one of the demands, "a serviceable home address for ... Roy Palmer..." Mtn. at 3. Undersigned counsel has been authorized to accept service on behalf of Mr. Palmer, and Plaintiff confirmed he will withdraw his Motion for Alternative Service filed on September 6, 2024. As such, the parties resolved this matter amicably out of court.

interview. Not only would such an admission be false, but it could waive WMI's personal jurisdiction defense. As such, the WM Defendants could not (and would not) agree to this unreasonable demand.

G. Current Status of Discovery

On August 31, 2024, Plaintiff filed a Motion to Compel Production and Admission from WM Defendants ("Motion to Compel"). Thereafter, the WM Defendants made a second rolling document production on September 6, 2024, and they continue to compile and review documents in response to Plaintiff's requests.

Simply put, there is nothing to compel. Plaintiff has failed to identify any specific discovery that he seeks that the WM Defendants will not produce. Accordingly, Plaintiff's Motion to Compel should be denied.

ARGUMENT

Under Maryland Rule 2-402(a), "[a] party may obtain discovery regarding any matter that is not privileged, ... if the matter sought is relevant to the subject matter involved in the action...." Subject to the scope of discovery set forth in Maryland Rule 2-402(a), a party may request documents by describing the requested items with reasonable particularity and specifying a reasonable time, place, and manner of inspection. Md. Rule 2-422(a)-(b). In turn, the responding party may agree to production, refuse production, or refuse production in a particular form. Md. Rule 2-422(c). Similarly, in responding to requests for admissions, the responding party "shall specify an objection, or shall admit or deny the matter, or shall set forth in detail the reason why the respondent cannot truthfully admit or deny it." Md. Rule 2-424(b). In addition, "when good faith requires that a party qualify an answer or deny only part of the matter of which an admission is requested, the party shall specify so much of it as is true and deny or qualify the remainder." *Id.*

If a discovery dispute arises, a party may file a motion to compel. “A motion for an order compelling discovery shall set forth: the question, interrogatory, or request; and the answer or objection; and the reasons why discovery should be compelled.” Md. Rule 2-432(b)(2); *see also* Md. Rule 2-424(c) (stating that a party challenging the sufficiency of an answer or objection to a request for admission “shall set forth (1) the request, (2) the answer or objection, and (3) the reasons why the answer or objection is insufficient.”).

A. Plaintiff’s Motion to Compel Should be Denied because It Fails to Identify the Discovery to be Compelled or the Reasons for Compelling It.

The WM Defendants have met (and continue to meet) their discovery obligations. The WM Defendants issued written responses in compliance with the Court’s August 15 Order and the Maryland Rules. The WM Defendants have attempted to negotiate with Plaintiff to resolve his perceived discovery disputes. The WM Defendants have made two rolling document productions and continue to search for and collect documents to be produced on a rolling basis. Meanwhile, the Motion to Compel fails to identify any specific documents that the WM Defendants will not produce, or any specific admissions that the WM Defendants improperly denied. There is simply nothing to compel here.

Plaintiff challenges the WM Defendants’ responses to Requests for Admission 51, 53, and 73. Mtn. at 7. Plaintiff argues that the WM Defendants responded with partial admissions, arguing that Maryland Rule 2-424 “does not allow for partial admissions unless specifically qualified by a detailed explanation.” Mtn. at 7-8. Plaintiff misinterprets the rule. Maryland Rule 2-424(b) provides that if “the respondent cannot truthfully admit or deny” a request, then the respondent must “set forth in detail the reason why” it cannot be admitted or denied. That is not what the WM Defendants did in response to Request Nos. 51, 53, and 73. The Rule goes on to explicitly permit partial admissions, stating that, “when good faith requires that a party qualify an answer or deny

only part of the matter of which an admission is requested, the party shall specify so much of it as is true and deny or qualify the remainder.” *Id.* The WM Defendants’ partial admissions are appropriate, and Plaintiff’s argument to the contrary is simply incorrect.

Otherwise, Plaintiff’s Motion to Compel makes sweeping allegations of non-compliance. *See, e.g.*, Mtn. 6-7. However, the Motion to Compel fails to specify which requests the WM Defendants have failed to adequately respond to, if or how the WM Defendants responded to those requests, or the reasons for compelling discovery in response to those requests. The Motion also contends that “[a] large portion of discovery sought is not only relevant for trial, but is intrinsic to addressing the defenses raised in the Defendants’ motion to dismiss,” without identifying the discovery that is supposedly needed or how it is relevant to those proceedings. *See* Mtn. at 4. To be sure, Plaintiff’s failure to comply with Maryland Rule 2-432(b)(2) and Maryland Rule 2-424(c) is not just a matter of form. It is a violation of the Maryland Rules. Moreover, without following the required format, Plaintiff’s vague assertions render it impossible for the WM Defendants to identify which discovery responses are allegedly deficient,⁴ let alone how to remedy the purported deficiency or defend against compulsion of unidentified discovery. Plaintiff’s vague allegations of unidentified discovery violations should be rejected, and the Motion to Compel should be denied.

In addition, Plaintiff purportedly challenges the WM Defendants’ objections to the discovery requests. Mtn. at 5-6. Plaintiff contends that the WM Defendants’ privilege objections

⁴ Plaintiff fails to “set forth: the question, interrogatory, or request; and the answer or objection; and the reasons why discovery should be compelled,” as required by Md. Rule 2-432(b)(2). *See also* Md. Rule 2-424(c). Exhibits 2 and 3 to the Motion are versions of the WM Defendants’ responses to Plaintiff’s discovery that merely set forth Plaintiff’s request and Plaintiff’s characterization of the WM Defendants’ responses. The exhibits fail to explain the reasons why the discovery sought should be compelled. Plaintiff’s failure to comply with the rules hamstring the WM Defendants’ ability to refute compulsion on a request-by-request basis. Nevertheless, in a good faith effort to set up the requests for individualized analysis, the documents attached hereto as **Exhibit L** and **Exhibit M** identify the Plaintiff’s discovery request, the WM Defendants’ response, the Plaintiff’s specific reason why discovery should be compelled (or lack thereof), and the WM Defendants’ response thereto.

lack the information required under Maryland Rule 2-402(e). *Id.* However, Rule 2-402(e) governs privilege logs, and the WM Defendants have already informed Plaintiff multiple times that they will produce a privilege log in conjunction with their rolling document productions.

Plaintiff also broadly argues that the WM Defendants objections are “generic” and “boilerplate;” but, the Motion to Compel fails to identify the specific objections to the specific responses that the Plaintiff contends are improper. *See Mtn.* at 5-6. It is entirely appropriate for the WM Defendants to object to the Plaintiff’s discovery requests, and Plaintiff fails to point to specific objections establishing otherwise. Many of the requests are untethered to the claims and defenses in the action. In many instances, Plaintiff seeks documents through the present even though the incident giving rise to the litigation occurred in 2017. Also, Plaintiff requests Mr. Tsottles’ personal health information, Mr. Tsottles’ employment records, and the contents of Mr. Tsottles’ social media accounts. These requests, and others, extend far beyond the scope of any conceivable issues in this case, and they are simply harassing. Plaintiff’s discovery is not “narrowly tailored and proportionate” as the Motion suggests, and WM Defendants’ objections are proper. *See Mtn.* at 4.

Finally, Plaintiff continues to demand that the WM Defendants produce documents immediately. *See Mtn.* at 4, 6-7. Plaintiff refuses to accept that it takes time to collect, review, and produce documents—especially in response to voluminous requests. That is unchanged by Plaintiff “request[ing] all discovery in electronic format.” *Mtn.* at 4. The WM Defendants have made two document productions and are continuing with their rolling production.⁵

⁵ It is unclear what the Plaintiff means by “the WM Defendants have ... produc[ed] no new documents.” *Mtn.* at 6.

B. Plaintiff's Request for Sanctions Should be Denied—If Anything, Plaintiff Should be Required to Pay Fees the WM Defendants Incurred in Responding to the Motion to Compel.

Plaintiff's request for sanctions should be denied. The Motion to Compel fails to identify a discovery failure, and the WM Defendants stand in compliance with their discovery obligations. If anything, Plaintiff's waste of judicial resources on a frivolous motion to compel that he threatened to file before the deadline for the WM Defendants' discovery responses were due warrants the imposition of sanctions against Plaintiff, including payment of the fees the WM Defendants incurred responding to the Motion to Compel. *See* Md. Rule 2-433(d).

CONCLUSION

For the foregoing reasons, the WM Defendants respectfully request that this Court deny Plaintiff's Motion to Compel.

Respectfully submitted,

/s/ Geoffrey M. Gamble

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Dated: September 16, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 16th day of September, 2024, a copy of the foregoing WM Defendants' Opposition to Plaintiff's Motion to Compel and proposed Order was served, through the MDEC system, on the following persons entitled to such service:

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