

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
)
 Defendant.)

Civil No. _____

AFFIDAVIT IN SUPPORT OF MOTION TO COMPEL DISCOVERY

_____, being first duly sworn upon oath, deposes and states as follows:

1. I am the attorney for _____ herein, and I make this Affidavit in support of _____'s Notice of Motion and Motion for Order to Compel Discovery.

2. _____'s attorney, was served (personally) (by mail) with _____'s Interrogatories and Request for Production of Documents, attached hereto as Exhibits _____ and _____, respectively, on _____, _____, as is evidenced by the Affidavit of Service, attached hereto as Exhibit _____.

OR

(On _____, _____, I served _____'s attorney with a Request for Discovery Conference, attached hereto as Exhibit _____, by United States mail, as is evidenced by the Affidavit of Service, attached hereto as Exhibit _____.)

3. By my letter to Attorney _____, dated _____, a copy of which is attached hereto as Exhibit _____, I informed Attorney _____ that I had obtained a hearing date of _____, for a Motion to Compel Discovery, and I requested _____'s Answers to Interrogatories and Response to Request for

Production of Documents on or before _____. I also advised Attorney _____ that I would be seeking attorney fees if I were forced to commence preparation of the motion documents for the hearing.

4. On _____, Attorney _____ contacted my office to advise me that _____'s responses to the Requests for Discovery would be mailed to me within a few days. I agreed to continue the date for the motion to compel discovery in light of my understanding that the discovery would be forthcoming, as evidenced by my letter to Attorney _____ dated _____, a copy of which is attached hereto as Exhibit _____. I also advised Attorney _____ that the motion would not be continued again and that I would expect payment of any attorney fees incurred to prepare for the motion.

5. On _____, we received _____'s Answers to Interrogatories, which were incomplete. A copy of _____'s Answers are attached hereto as Exhibit _____. We did not receive any response to the Request for Production of Documents. Attorney _____ has acknowledged that the responses to discovery are deficient.

6. On _____, I sent a letter to Attorney _____, a copy of which is attached hereto as Exhibit _____. By that letter, I advised (him) (her) that if we did not receive _____'s Response to Request for Production of Documents and complete Answers to Interrogatories in the immediate future, we would bring a motion to compel discovery.

7. On _____, I sent a letter to Attorney _____, a copy of which is attached hereto as Exhibit _____, advising (him) (her) that the hearing of our motion to compel discovery was set for _____.

8. To date, we have not received complete answers to Response to _____'s Interrogatories or a Response to _____'s Request for Production of Documents.

9. By (letter) (telephone call) (conference) with Attorney _____, on _____, I attempted to settle the parties' differences regarding discovery.

10. _____ has incurred attorney fees of \$_____ between _____, and _____, in the efforts to obtain discovery responses without a Court appearance. Since _____, _____ has incurred attorney fees of \$_____ preparing, reviewing and revising these motion papers. I anticipate that I will spend an additional _____ hours preparing for and attending the hearing. An award of \$_____ to reimburse _____ for (his) (her) attorney fees and costs is fair and reasonable, particularly since _____'s resources are limited, and (he) (she) has been unable to pay fees in accordance with our retainer agreement. Moreover, _____ enjoys a substantial earning capacity as is evident from (his) (her) Answer to Interrogatory No. _____, which indicates that _____ earned \$_____ per _____ from _____ to _____.

Name

Subscribed and sworn to before me this ____ day of _____, _____.

Notary Public

(SEAL)