

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK**

**Ako Burrell v. Tia Van Winkler, N. Pezdek, D. Traglia, LaPorte, D.
Bektic and Pelligrino**

Ako Burrell v. Tia Van Winkler, No. 6:24-CV-1169 (DNH/MJK) (N.D.N.Y. Mar. 23, 2026) · No. 6:24-CV-1169
(DNH/MJK) · Decided March 23, 2026

OPINION

Burrell

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

Ako Burrell, Plaintiff, 6:24-CV-1169

(DNH/MJK)

-v.- Tia Van Winkler, N. Pezdek, D. Traglia, LaPorte, D. Bektic and Pelligrino, Defendants. Ako Burrell, Plaintiff, pro se Peter A. McDaniel, Esq., Assistant Attorney General for Defendants Mitchell J. Katz, U.S. Magistrate Judge

MEMORANDUM-DECISION AND ORDER

Currently before the Court is Burrell’s Motion to Compel Discovery (Dkt. 42, 50)^{1 2} and “Motion For Order That Matter Is Admitted On Grounds Of Insufficiency Of Answer or Object” (Dkt. 45). Defendants 1 The Court notes that Burrell’s motion contains numerous redactions, suggesting that he utilized the same motions papers in an unrelated action. Specifically, the Court notes that the civil action number and the defendant’s name from an unrelated action have been redacted. 2 Burrell’s submission at Dkt. 50 is deemed a reply which is not allowed under Local Rule 7.1(a)(2) and will not be considered by the Court. Even if considered, Burrell’s reply would not change the Court’s ruling on his motions. oppose Burrell’s motions. (Dkt. 46). For the reasons stated below, Burrell’s motions are denied.

I. FACTS AND PROCEDURAL HISTORY

The Court assumes the parties’ familiarity with the facts and procedural history of this matter.

II. DISCUSSION

A. Legal Standard Under Fed. R. Civ. P. 26, “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]” Fed. R. Civ. P. 26(b)(1). Rule 26 directs the Court to consider “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Id. “A

district court has broad latitude to determine the scope of discovery and to manage the discovery process.” *EM Ltd. v. Republic of Argentina*, 695 F.3d 201, 207 (2d Cir. 2012) (citing *In re “Agent Orange” Prod. Liab. Litig.*, 517 F.3d 76, 103 (2d Cir. 2008)). “Motions to compel made pursuant to Fed. R. Civ. P. 37 are ‘entrusted to the sound discretion of the district court.’” *Harris v. Bronx Parent Hous. Network, Inc.*, No. 18-CV- 11681, 2020 WL 763740, at *1 (S.D.N.Y. Feb. 14, 2020) (quoting *United States v. Sanders*, 211 F.3d 711, 720 (2d Cir. 2000)). Where a party fails to participate or otherwise cooperate in discovery, the opposing party can seek an order compelling certain discovery. See Fed. R. Civ. P. 37. B. Burrell has not complied with N.D.N.Y. Local Rule 37.1 Defendants assert that Burrell’s motions should be denied because he failed to comply with Local Rule 37.1. (Dkt. 46, Def. Mem. of Law, pgs. 4-5). Defendants are correct. Local Rule 37.1 requires the following steps to be taken prior to a party making a discovery motion: a. Parties must make good faith efforts among themselves to resolve or reduce all differences relating to discovery prior to seeking court intervention. b. The moving party must confer in detail with the opposing party concerning the discovery issues between them in a good faith effort to eliminate or reduce the area of controversy and to arrive at a mutually satisfactory resolution. Failure to do so may result in denial of a motion to compel discovery and/or imposition of sanctions. (L.R. 37.1(a), (b)). On September 25, 2025, Burrell sent Defendants’ counsel a letter “pointing out their [discovery] responses were a month late and requesting that they respond immediately.” (Dkt. 42, ¶ 2). Defendants’ counsel contends that “there is no record of [his] office receiving such correspondence.” (Dkt. 46, Def. Mem. of Law, pg. 5).³ Notably, Defendants responded to Burrell’s (i) Request For Production of Documents on July 11, 2025 (Dkt. 42, pg. 15), (ii) Interrogatories served on Defendant Van Winkler in June 2025 (Dkt. 42, pg. 20), and (iii) Interrogatories served on Defendant LaPorte in August 2025 (Dkt. 42, pg. 24), prior to the September 2025 letter. Defendants’ discovery responses contain various objections, and there is nothing in the record suggesting that Burrell responded to or otherwise made any effort to resolve them before filing the pending motions. Burrell further alleges that because Defendants did not respond to his September 2025 letter, he “wrote to defendants counsel on _____,⁴ in an attempt to resolve informally as required by Local Rule.” ((Dkt. 42, ¶ 6). Burrell does not (i) provide the date of his second purported letter, (ii) state his objections to Defendants’ discovery responses, and (iii) indicate how he proposed to resolve his discovery dispute with Defendants. Burrell’s pro se status does not excuse his failure to abide by the Court’s procedural rules. “As has often been recognized by both the Supreme Court and Second Circuit, even pro se litigants must obey a district court’s procedural rules.” *Cusamano v. Sobek*, 604 F. Supp. 2d 416, 426-27 (N.D.N.Y. 2009) (citations omitted). And because of his extensive litigation history, Chief United States District Judge Brenda K. Sannes revoked Burrell’s special status as a pro se civil rights litigant. See *Burrell v. Global Tel Link, et al.*, No. 9:24-cv-1377 (BKS/TWD) (N.D.N.Y. Dec. 23, 2024). Burrell cannot deny that he is unfamiliar with the local rules of practice and cannot justify his failure to comply

with the same. Burrell's motions are therefore denied.⁵ Defendants incorrectly rely on G.O. 25 as a basis for denying Burrell's motion. G.O. 25, Section VIII(A) states that "no non-dispositive or discovery motions should be presented to the Court unless authorized by the Magistrate Judge after communication with the Magistrate Judge's chambers." However, Local Rule 37.1(c) states in part that "[p]ro se parties who are incarcerated are not subject to the court conference requirement prior to filing a motion to compel discovery." C. Defendants have complied with their discovery obligations. On March 24, 2025, the Court issued a Mandatory Pretrial Discovery And Scheduling Order In Civil Rights Actions brought By Inmates Pro Se ("Scheduling Order"). (Dkt. 29). Section I(A)(2) of the Scheduling Order required Defendants, within 60 days of March 24, 2025, to: provide to plaintiff copies of all documents and other materials in the care, custody, or control of any defendant or the defendant's employer if the employer is a public entity such as the New York State Department of Corrections and Community Supervision (DOCCS) related to the claims or defenses in the case. Where applicable, such documents and materials shall include those documents and materials described in Attachment A hereto.⁶ In the cases listed in Attachment A hereto, provision of the documents and materials described therein shall constitute presumptive compliance with this Order. On May 23, 2025, within 60 days of the March 24, 2025 Scheduling Order, Defendants served their initial disclosures on Burrell, consisting of 277 pages of material. (Dkt. 46-5). Further, Defendants' discovery responses, attached by Burrell to his motion papers, prove that they ⁶ This footnote quotes footnote number "1" from Section I(A)(2) of the Scheduling Order: "If any document, or any portion thereof, otherwise required to be disclosed is withheld for any reason, defense counsel shall (a) obtain a complete copy of any such document and retain the document in counsel's office until the conclusion of litigation, and (b) serve a log in conformity with Fed. R. Civ. P. 26(b)(5) identifying any withheld document and the grounds upon which it has been withheld." were served timely. (Dkt. 42, pgs. 9-24). Again, to the extent that Burrell had specific objections to Defendants' responses, there is no evidence in the record that he communicated those objections to Defendants. And without having made any apparent effort to resolve his objections, Burrell's motions are denied. D. Defendants' objections to Burrell's document demands. Burrell's motion to compel (Dkt. 42) would be denied even if he had complied with the Local Rules because his document demands are overly broad and lack a reasonable degree of specificity. Burrell requested production of: "(1) All books, memorandum, ledger; (2) E-mails may be produced in the form of hard copy to the requesting email system; (3) Emails between ORC Hoskins; and Van Winkler; (4) Evidence of threats; (5) GPS Regulation; Directive; (6) Use of Force; (7) Text Messages; (8) NYS DOCCS Parole Manual;⁷ (9) NYS DOCCS Parolee Rights; (10) NYS Parole Search and Seizure Policy; ⁷ Notwithstanding their objections to Demand No. 8, Defendants produced what they deemed to be documents responsive to this demand at Bates Nos. 84-124. (Dkt. 42, pg. 13).

(11) NYS DOCCS Parole Training Manual; (12) SPO Pezdek, LaPorte,

Traglia, Bektic & Van Winkler emails pertaining to Plaintiff;⁸ (13) GPS Monitor; and (14)

Plaintiff entire Parole file.” (Dkt. 42, pgs. 9-15). The document requests largely lack any degree of specificity to the point that considering proportionality, Defendants’ objections were proper. See *Kennedy v. Cont. Pharmacal Corp.*, No. CV 12-2664, 2013 WL 1966219, at *2 (E.D.N.Y. May 13, 2013) (“There is no specificity to the requests and no effort to limit these requests to any relevant acts alleged in this action. Lacking relevance and specificity, the requests are vague, overly broad, and unduly burdensome”). E. Burrell’s Requests for Admission Burrell’s motion for an “Order That Matter is Admitted on the Grounds of Insufficiency of Answer or Object” (Dkt. 45) is denied. Burrell alleges that Defendants response to his Request For Admissions “does not contain a specific answer” and “does not [] comply with the requirements of rule 36(a), nor does it state any objection to movant request for admission.” (Dkt. 45, ¶ 3). Defendants’ objection, among 8 Notwithstanding their objections to Demand No. 8, Defendants produced what they deemed to be documents responsive to this demand at Bates Nos. 1-83. (Dkt. 42, pg. 13). others, that Burrell’s request “is not simple, direct, nor limited to singular relevant facts ...” was appropriate. (Dkt. 46-7). Rule 36(a) provides:

(1) Scope. A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to: (A) facts, the application of law to fact, or opinions about either; and (B) the genuineness of any described documents. Rule 36(a)(2) provides: Form: Copy of a Document: Each matter must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying. “The requesting party bears the burden of setting forth its requests simply, directly, not vaguely or ambiguously, and in such a manner that they can be answered with a simple admit or deny without an explanation, and in certain instances, permit a qualification or explanation for purposes of clarification”. *Henry v. Champlain Enterprises, Inc.*, 212 F.R.D. 73, 77 (N.D.N.Y. 2003). A party on whom a request for admission has been served may (1) do nothing; (2) move for an extension; (3) move for a protective order; (4) admit the matter; (5) deny the matter; (6) set out the reasons why it cannot truthfully admit or deny the matter; or (7) object to the request for an admission. *Id.* (citing 8B Federal Practice & Procedure § 2259 (Wright & Miller 3d ed.)). But Rule 36 is “not a discovery device.” *T. Rowe Price Small-Cap Fund v. Oppenheimer & Co.*, 174 F.R.D. 38, 42 (S.D.N.Y. 1997). Burrell’s request does not comply with Rule 36(a)(2). The exhibit attached to Burrell’s request is a compilation of “over three hundred pages of paper, some bates stamped and others not, which appear to be sourced from Plaintiff’s previous litigations.” (Dkt. 46, Defs. Br., pg. 7). Rule 36(a)(2) requires Burrell to separately present each document that he wanted Defendants to respond to. Burrell’s failure to do so prevented Defendants from responding to his demand in a way other than they did. Defendants’ objection to Burrell’s demand was proper. Accordingly, Burrell’s motion is denied.

III. CONCLUSION

WHEREFORE, based on the findings above, it is hereby ORDERED, that Burrell's Motion to Compel Discovery (Dkt. 42, 50) is DENIED, and it is further ORDERED, that Burrell's "Motion For Order That Matter Is Admitted On Grounds Of Insufficiency Of Answer or Object" (Dkt. 45) is DENIED, and it is further ORDERED that the Clerk provide Burrell with copies of the unpublished decisions cited herein in accordance with *Lebron v. Sanders*, 557 F.3d 76 (2d Cir. 2008) (per curiam). Dated: March 23, 2026. Hon. Mitchell J. Katz U.S. Magistrate Judge 11 2020 WL 763740 basis of his disability. He alleges that after suffering a stroke Only the Westlaw citation is currently available. in July 2017, his then-employer, Defendant, refused to engage United States District Court, S.D. New York. in an individualized interactive process or to accommodate him as required by law. Plaintiff also alleges that eventually, Dwayne HARRIS, Plaintiff, despite his continued satisfactory performance, Defendant v. notified Plaintiff that he would either have to accept a The BRONX PARENT HOUSING significant demotion or be fired. Plaintiff claims that he NETWORK, INC., Defendant. declined a demotion and that Defendant then terminated his employment. Discovery in this case is still ongoing.

18-CV-11681 (GBD)(SN)

Signed 02/14/2020

DISCUSSION

Attorneys and Law Firms I. Governing Legal Principles Rule 26(b)(1) recognizes that a party "may obtain discovery Corey Scott Stark, Corey Stark PLLC, New York, NY, for regarding any nonprivileged matter that is relevant to any Plaintiff. party's claim or defense and proportional to the needs of Jennifer A. Redmond, Michelle Adams Callner, Redmond the case" See Fed. R. Civ. P. 26(b)(1); see also Rule 26 Law PLLC, New York, NY, for Defendant. Advisory Committee Notes to 2015 Amendments; *Edebal v. Bankers Standard Ins. Co.*, 14-cv-7095 (JSA)(KT), 2016 WL 4621077, at *1 (E.D.N.Y. Sept. 6, 2016). Relevant information need not be admissible at trial if the discovery

ORDER

appears reasonably calculated to lead to the discovery of SARAH NETBURN, United States Magistrate Judge: admissible evidence. Id. If the responding party fails to produce documents, the party seeking discovery may move

*1 Plaintiff Dwayne Harris ("Plaintiff") alleges defendant for an order compelling an answer, designation, production,

The Bronx Parent Housing Network, Inc. ("Defendant") or inspection. Fed. R. Civ. P. 37(a)(3)(B). Motions to compel wrongfully terminated his employment based on his made pursuant to Rule 37 are "entrusted to the sound disability. Before the Court are several motions. Defendant discretion of the district court." *United States v. Sanders*, 211 seeks a protective order in response to Plaintiff's request F.3d 711, 720 (2d Cir. 2000). for documents related to retaliation claims filed against Defendant. ECF No. 33. Plaintiff moves "to compel Defendant to comply with its

discovery obligations.” ECF A. Interrogatories No. 35. Specifically, Plaintiff maintains that Defendant failed Rule 33 provides that a “party may serve on any other party to respond fully to four interrogatories and seven requests for no more than 25 written interrogatories, including all discrete documents and moves the Court to compel responses. For the subparts.” Fed. R. Civ. P. 33(a)(1). Interrogatories “may relate reasons that follow, Defendant’s motion for a protective order to any matter that may be inquired into under Rule 26(b) ... is GRANTED in part and DENIED in part and Plaintiff’s [and] [are] not objectionable merely because [they] asks for motion to compel is GRANTED in part and DENIED in part. an opinion or contention that relates to fact or the application of law to fact” Fed. R. Civ. P. 33(a)(2). The responding party is required to answer each interrogatory “separately and fully under oath.” Fed. R. Civ. P. 33(b)(3). The Rule explicitly BACKGROUND

requires the responding party to “provide the best answer they Plaintiff filed his complaint on December 13, 2018, seeking can based upon information within their possession.” Edebali, damages under the Americans with Disabilities Act of 1990, 2016 WL 4621077, at *2. 42 U.S.C. §§ 12010, et seq. (the “ADA”), the New York Executive Law §§ 290, et seq. (the “NYSHRL”), and the *2 In order to ensure that each interrogatory is answered Administrative Code of the City of New York §§ 8-107, et seq. “separately” and “fully” under Rule 33(b)(3), the responding to answer the interrogatories which would include obtaining Commerce Exterior v. Phillips Petroleum Co., 105 F.R.D. the information to fully and completely answer the 16, 42 (S.D.N.Y. 1984) (citation omitted)). “The grounds for interrogatories” Upstate Shredding, LLC v. Ne. Ferrous, objecting to any interrogatory must be stated with specificity. Inc., 3:12-cv-1015, 2016 WL 865299 (LEK)(DEP), at *8 Any ground not stated in a timely objection is waived (N.D.N.Y. Mar. 2, 2016); see Zanowic v. Reno, 97-cv-5292, unless the court, for good cause, excuses the failure.” Fed. 2000 WL 1376251 (JGK)(HBP), at *3 n.1 (S.D.N.Y. Sept. 25, R. Civ. P. 33(b)(4). “General and conclusory objections 2000) (“In responding to interrogatories ... a party is under a as to relevance, overbreadth, or burden are insufficient to duty to make a reasonable inquiry concerning the information exclude discovery of requested information.” Melendez v. sought in the interrogatories, and a party’s failure to describe Greiner, 01-cv-7888 (SAS)(DF), 2003 WL 22434101, at *1 his efforts to obtain the information sought ... renders his (S.D.N.Y. Oct. 23, 2003). Boilerplate objections that include responses insufficient.”). Where a party, despite conducting a unsubstantiated claims of undue burden, overbreadth and lack diligent inquiry, is nevertheless unable to provide a responsive of relevancy, accompanied by a lack of document production answer, any efforts utilized should be set forth in detail to or interrogatory responses, “are a paradigm of discovery ensure a sufficient response is interposed. See Edebali, 2016 abuse.” Jacoby v. Hartford Life & Accident Ins. Co., 254 WL 4621077, at *2. Further, “an answer to an interrogatory F.R.D. 477, 478 (S.D.N.Y. 2009). must be completed within itself and, it should be in a form that may be used at trial ... [Therefore] [r]eference to depositions, other answers to the interrogatories, other II. Defendant’s Motion for a Protective Order document production, the

complaint itself, or any other Defendant seeks a protective order in response to documents are improper and thus unresponsive.” Id. Interrogatory Nos. 10 and 11, seeking “all retaliation complaints made against Rivera and [Defendant];” Document Request No. 27, seeking “retaliation complaints or charges, B. Requests for Production whether formal or informal, made by any person against “A party may serve on any other party a request within the Rivera and/or [Defendant];” and Document Requests Nos. scope of Rule 26(b)” to produce any designated documents 28 and 29, seeking “[a]ll Documents relating to any or permit their inspection. Fed. R. Civ. P. 34(a). “For each litigation – pending, threatened, or completed – concerning ... item or category, the response must either state that inspection retaliation raised by any person against either Rivera and/ and related activities will be permitted as requested or state an or [Defendant].” See ECF No. 33. Defendant argues that objection to the request, including the reasons.” Fed. R. Civ. whether other employees filed claims of retaliation against P. 34. If the responding party fails to produce documents, the Defendant is not relevant to this case, in which Plaintiff does party seeking discovery may move for an order compelling not allege retaliation. Plaintiff argues that he is entitled to an answer, designation, production, or inspection. See Fed. R. information about any retaliation claims against Defendant Civ. P. 37(a)(3)(B); see also *Wright v. New Moda, L.L.C.*, 17- because they are relevant to claims of discrimination against cv-9737 (JGK)(SN), 2019 WL 2071158, at *3 (S.D.N.Y. May the Defendant. 10, 2019). If the requested documentation does not exist, the responding party's good-faith averment will resolve the issue *3 Other claims of discrimination against a defendant are of the failure of production. *Menard v. Chrysler Grp. LLC*, discoverable if limited to the same form of discrimination. 14-cv-6325 (VB), 2015 WL 5472724, at *3 (S.D.N.Y. July 2, See *Vuona v. Merrill Lynch & Co.*, 10-cv-6529 (PAE), 2011 2015). WL 5553709, at *7 (S.D.N.Y. Nov. 15, 2011). Other claims of discrimination, in this context, refers to discrimination based on the same protected characteristic. See id. (holding C. Standard for Objections that plaintiff claiming gender discrimination was entitled to “A party resisting discovery has the burden of showing discover other claims of gender discrimination but not entitled ‘specifically how, despite the broad and liberal construction to “non-gender-based complaints”); *Bolia v. Mercury Print* afforded the federal discovery rules, each interrogatory Prods., Inc., 02-cv-6510T (MWP), 2004 WL 2526407, at *2 is not relevant or how each question is overly broad, (W.D.N.Y. Oct. 28, 2004) (holding that plaintiff was entitled burdensome or oppressive ... by submitting affidavits or only to “general discovery ... relating to discrimination offering evidence revealing the nature of the burden.’ claims” based on “age or disability” because those types or practice made unlawful under the ADA.” 42 U.S.C. about discrimination claims. Plaintiff's request regarding § 12203. Although Plaintiff does not claim retaliation, Interrogatory No. 6 is DENIED. whether other employees have been retaliated against in connecting with disability discrimination is relevant to Second, Plaintiff moves to compel Defendant to identify Plaintiff's claims. If a pattern of discrimination exists, it “all documents concerning the interactive process that may show that Defendant's proffered reasons for its decision [Defendant] engaged in

during the Relevant Time Period regarding Plaintiff is pretextual. See *Moll v. Telesector Res. concerning Plaintiff*” (Interrogatory No. 13). Defendant Grp., Inc., 760 F.3d 198, 204 (2d Cir. 2014) (“Evidence opposes on the grounds that the request seeks “information relating to company-wide practices may reveal patterns of that pre-dates and post-dates Plaintiff’s employment ... is discrimination against a group of employees, increasing not relevant to any claims or defenses ... constitutes an the likelihood that an employer’s offered explanation for overly broad fishing expedition ... [and] is vague and an employment decision regarding a particular individual incomprehensible” This request is specifically related masks a discriminatory motive.”) (quoting *Hollander v. Am. to Plaintiff’s claim that Defendants did not engage in Cyanamid Co.*, 895 F.2d 80, 84 (2d Cir. 1990)). To the the requisite interactive process with him. Defendant has extent Plaintiff seeks the identification of other claims of not met its burden of demonstrating that the requested retaliation, he is entitled to the identification of claims of discovery is overly broad, or offered any specific objection retaliation based on allegations of disability discrimination to the request. If Defendant cannot identify any documents only. Defendant’s request for a protective order is DENIED concerning the interactive process between Defendant and in part and Defendant is directed to respond to Interrogatories Plaintiff, Defendant must state so. Plaintiff’s request regarding Nos. 10, 11 and Document Requests 27-29 to the extent based Interrogatory No. 13 is GRANTED. on disability discrimination and filed within the past three years. Defendant’s request is GRANTED in all other respects. Third, Plaintiff moves to compel Defendant to identify “any documents concerning any complaints about Plaintiff’s work performance” (Interrogatory No. 19). Defendant responds III. Plaintiff’s Motion to Compel by directing Plaintiff to 13 documents, already produced Plaintiff seeks additional responses to four Interrogatories and identified by Bates numbers. Plaintiff’s response is that (Nos. 6, 13, 19, 20) and seven requests for document these documents are non-responsive. To the extent there are production (Request Nos. 3, 4, 17, 19, 20, 21, 22). See ECF additional documents concerning complaints about Plaintiff’s No. 35. work performance, Defendant is to identify them. Defendant also must indicate whether all documents responsive to the Interrogatory have been identified. Plaintiff’s request A. Interrogatories regarding Interrogatory No. 19 is GRANTED. First, Plaintiff moves to compel Defendant to identify “each employee Defendant terminated during the Relevant Time

*4 Finally, Plaintiff moves to compel Defendant to

Period” (Interrogatory No. 6). Plaintiff contends that other identify “all persons [Defendant] offered to demote to employees may be his comparators and whether Defendant avoid terminating them” (Interrogatory No. 20). Defendant terminated other disabled employees is relevant. Defendant objects on the grounds that this request is “incomprehensible, claims that the Interrogatory is overbroad and vague, seeks not relevant to any claim or defense in this litigation, disclosure of personal and private information concerning irrelevant as it seeks information concerning employees other employees other than Plaintiff for a period of time that pre- than

Plaintiff, and requires the adoption of the disputed dates and post-dates Plaintiff's employment, and "constitutes assumption that Defendant offered to demote employees an overbroad fishing expedition" for irrelevant information. to avoid terminating them" Whether Defendant took To the extent Plaintiff seeks information about other disabled similar adverse employment action against other individuals employees who were disciplined or terminated for the same similarly situated to Plaintiff is relevant. Plaintiff is entitled to or similar reasons as him, this information is likely relevant know the identity of other employees during the relevant time to Plaintiff's claims. Interrogatory No. 6, however, is not period who were offered a demotion to avoid termination. written to achieve the discovery of that information in Plaintiff's request is GRANTED and the Court directs reasonable manner. The request is overbroad, and to the Defendant to respond to Interrogatory No. 20. B. Document Requests 3. Interactive Process Documents Plaintiff argues that he is entitled to "All Documents

1. Work Performance Assessments concerning the interactive process that [Defendant] engaged in during the Relevant Time Period concerning Plaintiff seeks "[a]ll appraisals or assessments of Plaintiff's Plaintiff" (Request No. 20). Defendant objects on the work performance" (Request No. 3), "[a]ll draft appraisals or grounds that this request is "incomprehensible and vague assessments of Plaintiff's work performance" (Request No. and overbroad as is seeks 'All Documents,' " and refers to 4), "a copy of all communications with or about Plaintiff" several documents already produced. Plaintiff states that the that concern Plaintiff's work performance" (Request No. identified documents are not responsive. 19), and "[a]ll [d]ocuments concerning any complaints about Plaintiff's work performance" (Request No. 21). Plaintiff is entitled to all documents concerning the interactive process for the reasons discussed above in connection Defendant objects to each on the grounds that these requests with Interrogatory No. 13. Defendant merely repeats its are duplicative. I do not find the requests duplicative, standardized objections in response to this request and does although they are undoubtedly similar in nature. For each of not make the requisite specific showing that production these requests, Defendant also refers Plaintiff to documents of these documents would be unduly burdensome. If no previously produced. As discussed in this Order, and as other responsive documents exist, Defendant must indicate stated at the conference dated December 13, 2019, this is as much. Plaintiff's motion regarding Request No. 20 is not a complete response. To the extent there are additional GRANTED. documents, other than those produced to date, responsive to the requests, Defendant should produce them. If no other responsive documents exist, Defendant must indicate as much. Finally, Defendant argues that Request Nos. 19 and 4. Personnel Files for Plaintiff's Replacement(s) 21 are "overbroad" because they seek "all" communications

*5 Plaintiff finally argues that he is entitled to the

(Request No. 19) and "all" documents (Request No. 21). personnel files of any individuals who replaced him These requests are not overbroad. Defendant has made no (Request No. 22). Defendant objects on the grounds that specific showing that producing "all" documents responsive

the request is overbroad, not relevant and vague. This is an to these relevant requests would be overly burdensome. unsupported position; Plaintiff is entitled to the personnel Plaintiff's motions regarding Request Nos. 3, 4, 19, and 21 are file of any of his replacements. See Go v. Rockefeller GRANTED. Univ., 280 F.R.D. 165, 178 (S.D.N.Y. 2012). Defendant indicates that notwithstanding its objections, it is "in the process of compiling ... and redacting private information

2. Discipline Records from these files." Defendant has not justified redactions

of the information of individual replacement employees. Plaintiff seeks "Each Document that concerns any Discipline Accordingly, the responsive documents are to be produced to imposed upon Plaintiff" (request No. 17). Defendant objects Plaintiff's counsel. Defendant may designate these documents on the grounds that this request is "unduly burdensome," confidential and redact any sensitive information, such as that the definition of the term "discipline" is overbroad, social security numbers, contained therein. Plaintiff's counsel vague, and contradictory, and that the request is duplicative is directed to comply with the following orders: Plaintiff's of Request Nos. 3, 4, 12, 15, 19, and 21. I find each of counsel may show or disclose the documents' contents only these objections without merit. Defendant offers no more than to other employees of his law firm, to Plaintiff, and to trial conclusory reasons why this request is improper, and has witnesses and consultants, and only to the extent necessary made no specific showing that the request would be overly for trial preparation. The individuals to whom the documents' burdensome, as is required to defeat a motion to compel. contents are disclosed are also prohibited from using that Plaintiff's motion regarding Request No. 17 is GRANTED. information for any purpose other than trial preparation. Plaintiff's counsel is to maintain physical custody of the confidential documents and all copies are to be returned produce such witnesses, it must immediately provide contact to Defendant's counsel at the conclusion of the litigation. information so that Plaintiff may subpoena them. Plaintiff's motions regarding Request No. 22 is GRANTED subject to the directives herein. Finally, the Court hereby enters the following schedule:

(1) A discovery conference to address the issues raised

in Plaintiff's February 6, 2020 Letter is scheduled for CONCLUSION Tuesday, February 25, 2020, at 4:00 p.m. in Courtroom 219, Thurgood Marshall Courthouse, 40 Foley Square, Defendant's motion for a protective order is GRANTED in New York, New York. If this date is unavailable for part and DENIED in part, and Plaintiff's motion to compel any party, they must contact Courtroom Deputy Rachel is GRANTED in part and DENIED in part. Defendant is Slusher immediately at (212) 805-0286. directed to provide Plaintiff with supplemental responses that comply with this Order within 10 days. The Court, (2) All discovery in this case shall close March 20, 2020. in the exercise of discretion, will not impose sanctions on Defendant for necessitating Plaintiff's motion, despite the (3) Any party that wishes to move for summary judgment fact that Defendant's positions for refusing to comply with shall do so by April 17, 2020. Plaintiff's routine discovery demands were not substantially The Clerk of Court is respectfully

directed to terminate the justified in this case, as the Court strongly implied during the motions at Docket Nos. 33 and 35. conference held December 13, 2019. Additionally, at the upcoming discovery conference SO ORDERED. scheduled below, the Court will address, among other issues, Defendant's refusal to produce fact witnesses for depositions. All Citations The Court notes in advance of that conference that Defendant Not Reported in Fed. Supp., 2020 WL 763740 should be making every effort to cooperate in producing fact End of Document © 2026 Thomson Reuters. No claim to original U.S. Government Works. Title PDF Court Date Type

1. Docket 1:18-CV-11681 — S.D.N.Y. Dec. 13, 2018 Docket

Harris v. The Bronx Parent Housing Network, Inc. There are no History results for this citation. 2013 WL 1966219 number of interrogatories available to each party to twenty- Only the Westlaw citation is currently available. five, 'including all discrete subparts.' "). United States District Court, E.D. New York. In addition, the interrogatories basically seek narrative information that may more readily be developed at a Alanna M. KENNEDY, Plaintiff(s), deposition, e.g., "identify the nature of and describe the v. allegedly discriminatory and harassing conduct," persons CONTRACT PHARMACAL CORP., present, dates and locations where discriminatory acts and Matthew Wolf, Defendant(s). occurred and the circumstances relating to any reporting. See Interrogatory No. 10. Similar issues are raised solely No. CV 12-2664(JFB)(ETB). addressed to any alleged retaliatory acts. See Interrogatory | No. 10. These issues, narrative in nature, should be pursued May 13, 2013. at a deposition. See E*Trade Fin. Corp. v. Deutsche Bank, AG, No. 05 Civ. 902, 2006 U.S. Dist. LEXIS 82428, at *4 Attorneys and Law Firms (S.D.N.Y. Nov.10, 2006) ("To the extent that Plaintiffs seek long narrative explanations of underlying assumptions and Edward J. Kennedy, Jesse Curtis Rose, Phillips & Associates, methodologies, they have not shown that interrogatories are a Attorneys at Law, PLLC, New York, NY, for Plaintiff(s). more practical means of discovery than depositions."); Rivers Kenneth A. Novikoff, Scott Green, Rivkin Radler LLP, v. Safesite Nat'l Bus. Records Mgmt. Corp., No. 94 Civ. 5323, Uniondale, NY, for Defendant(s). 1995 U.S. Dist. LEXIS 12438, at *2 (S.D.N.Y. Aug. 24, 1995) (striking defendants' interrogatories because they "call[ed] for repeated detailed narratives of the events at issue in [the] case").

ORDER

E. THOMAS BOYLE, United States Magistrate Judge. For the foregoing reasons, the motion to compel interrogatory responses is denied.

*1 This is a Title VII action wherein the plaintiff, Alanna

M. Kennedy, seeks damages arising from alleged acts of The defendants also seek to compel the following document gender discrimination and hostile work environment, sexual demands: (1) "[a]ll documents concerning, relating to, harassment and retaliation against the defendant employer, reflecting and/or regarding Plaintiff's utilization of social Contract Pharmacal Corp. ("CPC"), and Matthew Wolf, the networking sites," Document Request No. 11; (2) "[a]ll corporate defendant CEO. documents, including, but not limited to postings, concerning, relating

to, reflecting and/or regarding Plaintiff's expression The defendants seek to compel responses to interrogatory of an emotional feeling while utilizing a social networking requests numbers 9 and 10. Plaintiff objects on the site,” Document Request No. 12; and (3) “[a]ll documents, ground that the interrogatories are narrative in nature including, but not limited to postings, concerning, relating and should be covered by a deposition and on the to, reflecting and/or regarding Plaintiff's employment with ground that the interrogatories exceed twenty-five, including Defendants while utilizing a social networking site,” discrete subparts. See Fed.R.Civ.P. 33(a)(1). I agree. The Document Request No. 13. Plaintiff objects on the ground interrogatories, while sixteen in number, contain twenty- that all of these requests are “vague, overly broad, and unduly seven subparts and are therefore excessive in number. burdensome.” Id. See *Cramer v. Fedco Aut. Components Co., Inc.*, No. 01–CV–0757E, 2004 U.S. Dist. LEXIS 13817, at * 14, *2 The objections are sustained. There is no specificity 2004 WL 1574691 (W.D.N.Y. May 26, 2004) (denying to the requests and no effort to limit these requests to any plaintiffs' motion to compel responses to interrogatories relevant acts alleged in this action. Lacking relevance and where interrogatories, including subparts, exceeded twenty- specificity, the requests are vague, overly broad and unduly five); *Riddle v. Liz Claiborne, Inc.*, No. 00 Civ. 1374, burdensome. See *Pegoraro v. Marrero*, 281 F.R.D. 122, 2003 U.S. Dist. LEXIS 14378, at *3, 2003 WL 21982967 133 (S.D.N.Y. Feb.2, 2012) (sustaining vagueness objection conduct of plaintiff”); *Kelleher v. City of New York*, No. denied. Jan.10, 2007) (sustaining defendant's objections to document SO ORDERED: requests where “court fails to see the relevance of the requested information to the plaintiff's claims”). All Citations Not Reported in F.Supp.2d, 2013 WL 1966219 End of Document © 2026 Thomson Reuters. No claim to original U.S. Government Works. Filings (2) Title PDF Court Date Type

1. Contract Gag E.D.N.Y. May 25, 2012 Pleading

Alanna M. KENNEDY, Plaintiff, v. PHARMACAL CORP., — and Matthew Wolf, individually, Defendants. 2012 WL 4890055

2. Docket 2:12cv02664 — E.D.N.Y. May 25, 2012 Docket

KENNEDY v. CONTRACT PHARMACAL CORP. ET AL

There are no History results for this citation.