

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

Johannes Gerber v. Randall Blau, et al.

Gerber · No. 20-12118 · Decided January 8, 2026

SUMMARY

This order directs the parties to meet and confer regarding defendants’ motion to compel discovery responses. It requires the parties to file a joint list of unresolved discovery issues by January 27, 2026, and schedules a hearing for February 3, 2026. The order also provides guidance concerning proportionality, specificity of discovery requests and objections, privilege logs, and compliance with the meet-and-confer requirement.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
WRITING FOR THE COURT	Elizabeth A. Stafford
DECIDED	January 8, 2026
DOCKET	20-12118
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to compel responses to requests for production. The motion was referred to Magistrate Judge Elizabeth A. Stafford for hearing and determination under 28 U.S.C. § 636(b)(1)(A). Rather than immediately deciding the merits, the court ordered the parties to meet and confer and submit a joint list of unresolved discovery issues before the scheduled hearing.
STANDARD OF REVIEW	Objections to the magistrate judge's ruling on the nondispositive motion are reviewed by the district judge under the clearly erroneous or contrary-to-law standard pursuant to Federal Rule of Civil Procedure 72(a) and 28 U.S.C. § 636.
PRECEDENTIAL VALUE	Unknown; district court discovery order

TOPICS

- discovery dispute
- civil procedure

PRACTICE AREAS

civil procedure

discovery

QUESTIONS PRESENTED

1. Whether the parties should be required to meet and confer in good faith before the court hears defendants' motion to compel.
2. What information the parties must provide concerning each unresolved discovery request so that the court can evaluate relevance, proportionality, specificity, burden, objections, and privilege.

HOLDINGS

1. The parties must meet and confer in person or by video in good faith as required by E.D. Mich. LR 37.1 and must file a compliant joint list of unresolved discovery issues before the hearing.
2. Discovery requests must describe the requested documents with reasonable particularity, and objections must be stated specifically. A burden objection must be supported by affidavits, other evidence, or sufficient information to permit a common-sense assessment of the burden.
3. A party claiming privilege in response to discovery must provide a privilege log as required by Federal Rule of Civil Procedure 26(b)(5)(A)(ii).

KEY QUOTATIONS

“The parties must meet and confer in good faith in person or by video as required by E.D. Mich. LR 37.1.”

“A party either objects to production or produces. If it produces, the objections are generally deemed waived.”

FACTUAL BACKGROUND

Defendants sought an order compelling Plaintiff to respond to requests for production. The court had not yet resolved the substance of the discovery dispute and instead required the parties to confer regarding each disputed request, the original response or objection, relevance to a specific claim or defense, and proportionality under Federal Rule of Civil Procedure 26(b)(1).

PROCEDURAL HISTORY

Defendants filed a motion to compel discovery responses, and District Judge Denise Page Hood referred the motion to Magistrate Judge Stafford. The magistrate judge ordered an in-person or video meet-and-confer under E.D. Mich. LR 37.1, required a detailed joint list of unresolved issues by January 27, 2026, and scheduled a hearing for February 3, 2026. The order advised the parties of their right to object under Federal Rule of Civil Procedure 72(a).

DISPOSITION

other

CASES CITED

- Helena Agri-Enterprises, LLC v. Great Lakes Grain, LLC, 988 F.3d 260, 273 (6th Cir. 2021)
- Weidman v. Ford Motor Company, No. CV 18-12719, 2021 WL 2349400, at *3 (E.D. Mich. June 9, 2021)
- Cratty v. City of Wyandotte, 296 F. Supp. 3d 854, 858 (E.D. Mich. Nov. 8, 2017)
- United States v. Quicken Loans, Inc., No. 16-CV-14050, 2018 WL 7351682, at *1 (E.D. Mich. June 5, 2018)
- Cheney v. U.S. Dist. Court for D.C., 542 U.S. 367, 387-388 (2004)
- Effyis, Inc. v. Kelly, No. 18-13391, 2020 WL 4915559, at *2 (E.D. Mich. Aug. 21, 2020)
- In re Heparin Products Liab. Litig., 273 F.R.D. 399, 410-11 (N.D. Ohio 2011)
- Vallejo v. Amgen, Inc., 903 F.3d 733, 743-44 (8th Cir. 2018)
- Siser N. Am., Inc. v. Herika G. Inc., 325 F.R.D. 200, 209-10 (E.D. Mich. 2018)
- Aprile Horse Transp., Inc. v. Prestige Delivery Sys., Inc., No. 5:13-CV-15-GNS-LLK, 2015 WL 4068457, at *3 (W.D. Ky. July 2, 2015)
- Riley v. NewPenn Kilt, LLC, No. 518CV00014TBRHBB, 2020 WL 59838, at *2 n.1 (W.D. Ky. Jan. 6, 2020)
- Lucas v. Protective Life Ins. Co., No. CIV.A.4:08CV00059-JH, 2010 WL 569743, at *3 (W.D. Ky. Feb. 11, 2010)
- Johnson v. Serenity Transp., Inc., No. 15-CV-02004-JSC, 2016 WL 6393521, at *2 (N.D. Cal. Oct. 28, 2016)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION JOHANNES GERBER, Case No. 20-12118 Plaintiff, Honorable Denise Page Hood Magistrate Judge Elizabeth A. Stafford v. RANDALL BLAU, et al., Defendants. ORDER TO MEET AND CONFER Defendants move to compel responses to requests for production. ECF No. 61.

The Honorable Denise Page Hood referred the motion to the undersigned for hearing and determination under 28 U.S.C. § 636(b)(1)(A). ECF No. 62. The Court instructs the parties to meet and confer about the issues raised in the motion to compel.

The parties must carefully read and follow the rest of this Order. The Court will hold a hearing about defendants' motion to compel on February 3, 2026 at 11:00 a.m. The parties must meet and confer in good faith in person or by video as required by E.D. Mich. LR 37.1. Following the meeting, and by January 27, 2026, the parties must file a joint list of unresolved issues.

This filing must list each unresolved discovery request, verbatim; followed by the original answer or objection, verbatim; followed by the requesting party's argument why the response was insufficient or why any objection is without merit; followed by answering party's argument why its response was sufficient or why any objection has merit.

For example: Interrogatory or request: [exact language] Original answer or objection: [exact language] Requesting party's argument: Responding party's argument: The parties' arguments

must address relevance to a specific claim or defense, and the proportionality factors under Federal Rule of Civil Rule 26(b)(1). See *Helena Agri-Enterprises, LLC v. Great Lakes Grain, LLC*, 988 F.3d 260, 273 (6th Cir.

2021) (describing the collective duty of the parties and courts to consider proportionality in resolving discovery disputes). The Court will reject any argument that relies on the language of Rule 26(b)(1) before it was amended in 2015 or caselaw that interprets that outdated language. See *Weidman v. Ford Motor Company*, No. CV 18- 12719, 2021 WL 2349400, at *3 (E.D.

Mich. June 9, 2021); *Cratty v. City of Wyandotte*, 296 F. Supp.3d. 854, 858 (E.D. Mich. Nov. 8, 2017). A party requesting documents must describe each request with reasonable particularity. Fed. R. Civ. P. 34(b)(1)(A). A document request should not “call on the producing party to engage in a subjective guessing game of whether a document is responsive.” *United States v. Quicken Loans, Inc.*, No. 16-CV-14050, 2018 WL 7351682, at *1 (E.D.

Mich. June 5, 2018). Courts have long condemned omnibus “any and all” document requests. See *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 387-388 (2004) (document requests asking “for everything under the sky” were “anything but appropriate”); *Effyis, Inc. v. Kelly*, No. 18-13391, 2020 WL 4915559, at *2 (E.D. Mich. Aug. 21, 2020) (finding the defendant’s exceptionally broad discovery requests violated Fed.

R. Civ. P. 26(g)). The rules also require objections to interrogatories and requests for production of documents to be made with specificity. Fed. R. Civ. P. 33(b)(4) & 34(b)(2). A party objecting to a request for production of documents as burdensome must support that objection with affidavits, other evidence, or enough information to allow the Court to make a common-sense judgment.

In re Heparin Products Liab. Litig., 273 F.R.D. 399, 410-11 (N.D. Ohio 2011); *Vallejo v. Amgen, Inc.*, 903 F.3d 733, 743- 44 (8th Cir. 2018). The responding party is also warned, “Boilerplate objections are legally meaningless and amount to a waiver of an objection.” *Siser N. Am., Inc. v. Herika G. Inc.*, 325 F.R.D. 200, 209–10 (E.D. Mich. 2018). And “a party cannot cloak its answers in without-waiving objections.” *Aprile Horse Transp., Inc. v. Prestige Delivery Sys., Inc.*, No. 5:13-CV-15-GNS-LLK, 2015 WL 4068457, at *3 (W.D.

Ky. July 2, 2015). In other words, “[a] party either objects to production or produces. If it produces, the objections are generally deemed waived.” *Riley v. NewPenn Kilt, LLC*, No. 518CV00014TBRHBB, 2020 WL 59838, at *2 n.1 (W.D. Ky. Jan. 6, 2020).

The Court will not tolerate a party unilaterally and unreasonably deciding that requested discovery is not relevant or discoverable under proportionality based solely on its own litigation position. See *Lucas v. Protective Life Ins. Co.*, No. CIV.A.4:08CV00059-JH, 2010 WL 569743, at *3 (W.D. Ky. Feb. 11, 2010) (rejecting argument that underwriting materials were not discoverable based upon the insurer’s “unilateral decision that these other guidelines are not relevant to the claims and

defenses in this action”); Johnson v. Serenity Transp., Inc., No. 15-CV-02004-JSC, 2016 WL 6393521, at *2 (N.D.

Cal. Oct. 28, 2016) (“A party cannot unilaterally decide that there has been enough discovery on a given topic.”). Of final note, to the extent that a responding party claims privilege, it must provide a privilege log as described in Fed. R. Civ. P. 26(b)(5)(A)(ii). If the parties do not meaningfully meet and confer, or if the joint list of unresolved issues does not comply with this order, the Court will order the parties to repeat the meet-and-confer process.

If the parties resolve all issues raised by the motion, they must submit a stipulation and order to cancel the hearing. IT IS SO ORDERED. s/Elizabeth A. Stafford ELIZABETH A. STAFFORD
United States Magistrate Judge Dated: January 8, 2026 NOTICE TO PARTIES ABOUT
OBJECTIONS Within 14 days of being served with this order, any party may file objections with the assigned district judge.

Fed. R. Civ. P. 72(a). The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636. “When an objection is filed to a magistrate judge’s ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.” E.D. Mich. LR 72.2.

CERTIFICATE OF SERVICE The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court’s ECF System to their email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 8, 2026. S/Davon Allen DAVON ALLEN Case Manager