

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF ILLINOIS
 PEORIA DIVISION

KAY E. ROYSTER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 06-1174
)	
BOARD OF EDUCATION OF THE CITY OF)	
PEORIA, SCHOOL DISTRICT NO. 150;)	
AARON SCHOCK, former President of the)	
Board of Education, individually; VINCENT)	
WIELAND, former President of the Board of)	
Education, individually; SEAN MATHESON,)	
Vice President of the Board of Education,)	
individually; MARY SPANGLER, member of)	
the Board of Education,)	
)	
Defendants.)	

DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION TO COMPEL

COME NOW the defendants, BOARD OF EDUCATION OF THE CITY OF PEORIA, SCHOOL DISTRICT NO. 150; AARON SCHOCK, former President of the Board of Education, individually; VINCENT WIELAND, former President of the Board of Education, individually; SEAN MATHESON, (former) Vice President of the Board of Education, individually; MARY SPANGLER, member of the Board of Education, by and through their attorneys, HINSHAW & CULBERTSON LLP, and in support of their Motion to Compel pursuant to Rule 37(a)(2)(A) and (B), the defendants state as follows:

Plaintiff's failure or refusal to provide her documents referenced in her February 1, 2007 initial disclosures under Rule 26(a) of the Federal Rules of Civil Procedure continues through today without any reasonable explanation. Plaintiff's counsel confirmed in a January 16, 2007 e-mail that he would provide plaintiff's initial disclosures that week. (Memorandum Group Ex. No. 1, defendants' counsel's January 15, 2007 e-mail to plaintiff's counsel and the January 16,

2007 e-mail from plaintiff's counsel to defendants counsel). Finally, plaintiff's counsel e-mailed plaintiff's initial disclosure while promising documents would be mailed. (Memorandum Ex. No. 3, plaintiff's counsel's February 1, 2007 e-mail to defendants' counsel). In addition, the plaintiff's counsel has assured counsel for the defendant's in a telephone conversation on about February 1st that the discovery responses would be forthcoming in a few days.. However, none of the much promised documents have yet arrived at the offices of defendants' counsel.

Moreover, defendants' attorney followed up with a January 25, 2007 letter to plaintiff's counsel that not only raised the failure of plaintiff to provide any initial disclosures, but also plaintiff's continuing failure or refusal to respond to interrogatories and requests to produce defendants' counsel served on December 6, 2006. (Memorandum Ex. No. 2). Still, plaintiff fails to provide her discovery answers and documents.

District Courts retain the power to control their dockets and when parties disregard their obligations imposed by the discovery rules, and the court's scheduling orders, discovery misconduct can reach a point where sanctions, including dismissals, prove proper. *See Aura Lamp & Lighting Co., Inc. v. International Trading Corp.*, 325 F.3d 903, 905, 909-10 (7th Cir. 2002); *In re Golant*, 239 F.3d 931, 936-37 & n.1 (7th Cir. 2001); *Jensen v. City of Wilmington*, 2003 WL 21698993 (7th Cir. 2003) (unreported) (affirming district court order sanctioning plaintiffs for discovery violations by dismissing case).

Since filing her complaint seven plus months ago, plaintiff has only within the past week provided the documents referenced in her tardy initial Rule 26 disclosures, and has ignored any need to respond to defendants' interrogatories and requests for production. As a result, plaintiff has deprived defendants of what should have been a standard part of the early discovery process.

In this context, defendants should recover their attorneys' fees and costs for having to bring this matter before the Court.

WHEREFORE, defendants, BOARD OF EDUCATION OF THE CITY OF PEORIA, SCHOOL DISTRICT NO. 150; AARON SCHOCK, former President of the Board of Education, individually; VINCENT WIELAND, former President of the Board of Education, individually; SEAN MATHESON, (former) Vice President of the Board of Education, individually; MARY SPANGLER, member of the Board of Education, request that this Court grant their Motion to Compel and enter an order requiring plaintiff to immediately produce the documents referenced in her initial disclosures by a date specified by the Court and to serve her answers to defendants' interrogatories and responses to defendants' requests for production, along with producing her responsive documents by a date certain, and additionally award defendants their costs and attorneys' fees for having to bring this motion in order to obtain plaintiff's compliance with the discovery procedures detailed in the Federal Rules of Civil Procedure.

Respectfully submitted,

BOARD OF EDUCATION OF THE CITY OF
PEORIA, SCHOOL DISTRICT NO. 150;
AARON SCHOCK, former President of the
Board of Education, individually; VINCENT
WIELAND, former President of the Board of
Education, individually; SEAN MATHESON,
(former) Vice President of the Board of
Education, individually; MARY SPANGLER,
member of the Board of Education, Defendants

By: HINSHAW & CULBERTSON LLP

s/L. Lee Smith

L. Lee Smith

Ambrose V. McCall

One of Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on **February 14, 2007**, I electronically filed this **MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO COMPEL** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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