

JUL 26 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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- For Publication -

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

JOHN (JACK) ANGELLO,

Plaintiff

v.

NORTHERN MARIANAS
COLLEGE,

Defendant

Civil Action No. 03-0014

ORDER DENYING
MOTION TO COMPEL

THIS MATTER came before the court on Thursday, July 21, 2005, for hearing of plaintiff's motion that defendant be compelled to provide certain documents. Plaintiff appeared personally and by and through his attorney, Danilo T. Aguilar; defendant appeared by and through its attorney, F. Matthew Smith.

THE COURT, having considered the written and oral arguments of counsel, hereby denies the motion.

1 Plaintiff timely served his first request for documents to defendant on July 7,
2 2004. Plaintiff served a second request for documents to defendant on March 9,
3 2005, because plaintiff was dissatisfied with defendant's response to the first request
4 for production. Defendant objected to several of plaintiff's requests and refused to
5 produce the requested documents, asserting that they were either unavailable or
6 irrelevant. On June 15, 2005, plaintiff moved to compel the production of
7 documents by defendant.
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10 The case management scheduling order established that all discovery was to
11 be completed by April 29, 2005, and that all discovery motions were to be filed by
12 May 26, 2005. Federal Rule of Civil Procedure 16(b)(6) provides in part that a case
13 management scheduling order "shall not be modified except upon a showing of
14 good cause and by leave of the district judge" [emphasis added]. Both parties are
15 bound by the deadlines imposed and in open court plaintiff conceded his motion
16 was untimely.
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19 While the court continues to encourage parties to cooperate and allow for
20 extensions, the court has consistently denied granting extensions beyond the case
21 management scheduling order without timely leave of the court having first been
22 sought. *See e.g. A.I.R.S. v. CNMI Travel Agency*, (D.N.Mar.I., 2004); *Aguon v. CPA*,
23 (D.N.Mar.I., 2001). The record shows that plaintiff has continually requested the
24 same documents and that defendant has consistently opposed the request. Given
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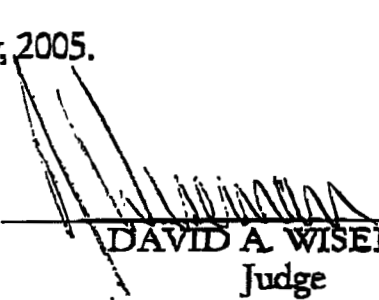
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the known impasse between the parties, plaintiff should have moved to compel production prior to the case management scheduling order deadline.

For these reasons, and on these facts, the court, in an exercise of its sound discretion, denies plaintiff's motion to compel production of documents by defendant.

IT IS SO ORDERED.

DATED this 26 day of July, 2005.



DAVID A. WISEMAN
Judge