

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MARY CUMMINS,

PLAINTIFF,

VS.

AMANDA LOLLAR, ET AL.,

DEFENDANTS.

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CIVIL ACTION NO. 4:12-CV-560-Y

**ORDER PARTIALLY GRANTING DEFENDANT’S AMENDED MOTION TO
COMPEL**

Pending before the Court is Defendant Amanda Lollar (“Lollar”)’s Amended Motion to Compel [doc. #110], filed April 30, 2014. Having carefully considered the Defendant’s Motion and Plaintiff’s response, the Court concludes that that Defendant’s Motion should be **PARTIALLY GRANTED.**

On June 5, 2012, Plaintiff filed suit against the Defendants to recover damages relating to her alleged injuries incurred in June 2010 while working for Defendant Bat World Sanctuary. Plaintiff claims she suffered head and back injuries after hitting her head and falling to the floor while performing tasks related to her internship at Defendant Bat World Sanctuary. (Pl.’s Second Am. Compl. at ¶ 4.)

In her motion to compel, Lollar, the President of Bat World Sanctuary, claims that, on August 29, 2013, she served a First Set of Interrogatories and a First Request for Production of Documents on Plaintiff. (Defendant’s Amended Motion to Compel (“Def.’s Mot.”) at 1.) As to the First Set of Interrogatories, Lollar objects that Plaintiff’s answers were not made under oath

as required by Federal Rule of Civil Procedure 33(b).¹ (Def.'s Mot. at 6.) In addition, Lollar claims that Plaintiff responded to Interrogatories Nos. 2, 4, 5, 16, and 21 by stating that they would be answered "at a later date through an attorney," failed to fully respond to Interrogatories Nos. 12, 13, and 15, and objected to Interrogatory No. 11 as being, in essence, irrelevant. (Def.'s Mot. at 2, 6-8.) As to the First Request for Production of Documents, Lollar states that Plaintiff failed to produce any requested documents and made "boilerplate objections" to Request for Production Nos. 6, 9, 11, 12, and 13. Lollar further claims that Plaintiff has indicated "that she would only respond to the discovery with a protective order in place." (Def.'s Mot. at 2.) In addition, Lollar objects to Plaintiff's statement in her responses to interrogatories and request for production in which she claims that she is providing such information "under seal." (Def.'s Mot. at 5.)

Plaintiff, in her response, claims that she has replied to all interrogatories except Nos. 12 and 13. (Plaintiff's Response ("Pl.'s Resp.") at 1-2. As to interrogatory No. 13, Plaintiff states that she "agrees to waive claims to 'lost wages.'" ("Pl.'s Resp." at 2.) In addition, Plaintiff claims that she "did not reply to all discovery requests as [she] requested a signed protective order over discovery items, interrogatories, and the discovery process **before** she would provide the documents." (Pl.'s Resp. at 2.) Plaintiff further states that she tried to resolve the discovery issues with Defendant but that Defendant refused her request for a protective order. (Pl.'s Resp. at 2.) Plaintiff requests a protective order claiming that "Lollar has a long history of abusing discovery to harass, oppress, embarrass, annoy, cyberstalk and even commit crimes such as identify [sic] theft and bank fraud against Plaintiff and unrelated third parties." (Pl.'s Resp. at 3.)

¹ Rule 33(b)(3) states, "Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath." Fed. R. Civ. P. 33(b)(3).

The rules regarding discovery are to be interpreted broadly and liberally. *See* Fed. R. Civ. P. 26(b)(1). The responding party to interrogatories must “serve its answers . . . within 30 days after being served.” Fed. R. Civ. P. 33(b)(2). In addition, as to requests for production, “[t]he party to whom the request is directed must respond in writing within 30 days after being served.” Fed. R. Civ. P. 34(b)(2)(A). Furthermore, if Plaintiff makes objections to any interrogatory or request for production, they must be valid objections. *See McLeod, Alexander, Powel & Appfel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990). The party resisting discovery must show specifically how each interrogatory is not relevant or how each question is overly broad. *Id.* Merely stating that an interrogatory or document request is “overly broad and burdensome,” “oppressive,” or “not reasonably calculated to lead to the discovery of admissible evidence,” is not sufficient and the resisting party risks waiving his objections entirely. *Id.* Rule 26(c) provides that a Court may, for good cause shown, issue a protective order forbidding discovery, specifying terms for discovery, or designating persons who may be present while discovery is conducted.

After reviewing the motion and response,² the Court concludes that Plaintiff should be compelled to answer the following interrogatories in Defendant’s First Set of Interrogatories to Plaintiff as such interrogatories are reasonably calculated to lead to the discovery of relevant evidence: Nos. 2, 4, 5, 11, 12, 15a, and 21. The Court further concludes that Interrogatory Nos. 13, 15b, 15c, 15d, and 16 are moot as Plaintiff has definitively stated in her response that she “agrees to waive claims to ‘lost wages.’” (Pl.’s Resp. at 2.)

As to Defendant’s First Request for Production, the Court concludes that Plaintiff should be compelled to produce documents in response to the following requests for production in

² The Court will only consider those outstanding discovery requests put at issue by the parties in the Amended Motion to Compel and response.

Defendant's First Request for Production to Plaintiff: Nos. 6, 7, 8, 9, 10, 12, 18, 19, and 21. The Court further concludes that Request for Production Nos. 11, 13, 14 are moot as Plaintiff has, as stated above, waived her claim to lost wages.

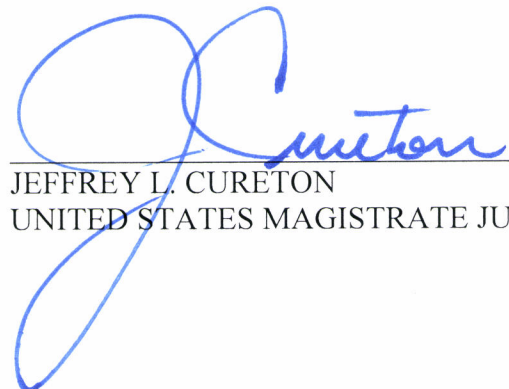
Furthermore, the Court notes that the parties have discussed and appear to agree that a protective order would be appropriate in this case. The Court invites the parties to confer and agree to the terms of a mutual protective order and present a joint motion regarding such protective order to the Court for its consideration.

Based on the foregoing, it is **ORDERED** that Defendant's Motion to Compel [doc. # 110] is **PARTIALLY GRANTED** in that Plaintiff shall, **no later than September 16, 2014**, provide "under oath" as required by Rule 33(b)(3) complete answers to First Set of Interrogatories Nos. 2, 4, 5, 11, 12, 15a, and 21 and produce the documents requested in First Request for Production Nos. 6-10, 12, 18, 19, and 21.

It is further **ORDERED** that Plaintiff has waived her claims for damages for lost wages.

It is further **ORDERED** that Plaintiff shall, **no later than September 16, 2014**, resubmit her original responses "under oath" to Defendant's First Set of Interrogatories to all other Interrogatory Numbers not set forth the above paragraph.

SIGNED August 26, 2014.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE