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3RD DISTRICT COURT SALT LAKE COUNTY, STATE OF UTAH	
STATE OF UTAH, Plaintiff, vs. JASON CHRISTOPHER HALL, Defendant.	MOTION TO STRIKE DEFENDANT’S RESPONSE TO OBJECTION TO THE PROPOSED ORDER TO COMPEL Case No. 221906445 Judge: PAUL B. PARKER

State of Utah, through Steven A. Wuthrich and Heather Waite Grover, Assistant Attorneys General, hereby moves to strike the “Response to Objection to the Proposed Order” (ECF No. 289) because Defendant’s Motion to Compel is not a mislabeled Statement of Discovery Issues, and even if it were, it fails to comply with Utah Rule of Civil Procedure 37(a)(2)’s requirements for a Statement of Discovery Issues.

ARGUMENT

Defendant Hall imprudently filed a Proposed Order Granting the Motion to Compel (ECF No. 279) simultaneous with his Motion to Compel (ECF No. 278). He has now compounded the

error by attempting to rename the pleading as a Statement of Discovery Issues. However, a legal pleading is not a chameleon that can change its color when needed.

On September 9, 2023, Defendant filed a pleading entitled “Motion to Compel.” The introductory paragraph reads:

Defendant Jason Christopher Hall (“Defendant” or “Mr. Hall”), by and through his counsel of record and pursuant to Rule 16 of the Utah Rules of Criminal Procedure, respectfully moves for an Order compelling the State of Utah to allow Mr. Hall’s expert to examine five physical letters.

The defendant’s motion is eleven pages long, contains subsections entitled “Introduction,” “Background,” “Arguments,” and “Conclusion.” It does not contain the sections required by Utah Rule of Civil Procedure 37(a)(2):

- (A) the relief sought and the grounds for the relief sought stated succinctly and with particularity;
- (B) a certification that the requesting party has in good faith conferred or attempted to confer with the other affected parties in person or by telephone in an effort to resolve the dispute without court action;
- (C) a statement regarding proportionality under Rule 26(b)(2); and
- (D) if the statement requests extraordinary discovery, a statement certifying that the party has reviewed and approved a discovery budget.

Moreover, Defendant’s Motion to Compel is not predicated upon any of the grounds listed in subsection (a)(1) of Rule 37. Defendant has not specified his purported expert as an expert, or any kind of witness, in this case. Defendant refuses to disclose his witnesses until 14 days before trial, notice requirements of Utah Code section 77-17-13 notwithstanding.

With respect to a motion to strike, Rule 12 (f) of the Utah Rules of Civil Procedure states:

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 21 days after the service of the pleading, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

Defendant's Response to the Objection to the Proposed Order is insufficient because it falsely represents to this Court that the Motion to Compel was in fact a Statement of Discovery Issues. It is impertinent and/or scandalous in that were it a Statement of Discovery Issues, it should be stricken for egregious non-compliance with Rule 37.

The State afforded the Defendant an opportunity to withdraw the erroneous pleading, which opportunity was rejected.

CONCLUSION

For the foregoing reasons the State's Motion to Strike should be granted, striking Defendant's Response to the Objection to Proposed Order as well as the Proposed Order itself.

DATED: September 27, 2023

SEAN D. REYES
UTAH ATTORNEY GENERAL

/s/ Steven A. Wuthrich
STEVEN A. WUTHRICH
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing to be served on the following via the court's e-filing system.

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DATED: September 27, 2023

/s/ Martina Hinojosa
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