

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FREDERICK SAUNDERS,

Plaintiff,

v.

Case No: 6:23-cv-230-RBD-LHP

SIGNATURE FLIGHT SUPPORT,
LLC,

Defendant

ORDER

Upon review of Defendant's Motion for Sanctions Pursuant to the Florida Mediation Confidentiality and Privilege Act, or in the Alternative, the Court's Inherent Power (Doc. No. 55), and Plaintiff's response thereto (Doc. No. 73), and in the hopes of streamlining the issues to be addressed at the March 13, 2024 hearing (*see* Doc. No. 67), the Court finds that further evidence from Plaintiff is required.

Accordingly, on or before **5:00 p.m. on March 11, 2024**, Plaintiff shall file an affidavit, signed under penalty of perjury, *see also* 28 U.S.C. § 1746, which addresses the following factual issues:

1. Whether Plaintiff signed an Agreement to Mediate and Confidentiality Agreement prior to, or at the time of commencement of, the July 21, 2022 mediation

with the EEOC. *See* Doc. No. 55-1, at 2-7. If Plaintiff did not sign one or both agreements, Plaintiff shall explain in the affidavit (a) whether he ever received a copy of either agreement, and if so when; and (b) why he did not sign one or both of the agreements.

2. Whether Plaintiff recorded the July 21, 2022 mediation. If the answer is yes, Plaintiff shall identify which portions of the mediation he recorded, the manner in which he recorded the mediation, and the whereabouts of the recording at present time. Plaintiff shall also explain his text message which reads “starting the recording now.” *See* Doc. No. 55-1, at 10.

3. If Plaintiff recorded (all or part) of the July 21, 2022 mediation, Plaintiff shall explain whether he transmitted (or attempted to transmit) a copy of the recording to anyone aside from his counsel of record in this case.¹ If Plaintiff did transmit a copy of the recording to other persons, Plaintiff shall identify the dates, times, and manner of transmission (or attempted transmission), as well as the identities of the person(s) he transmitted the recording to. *See*, Doc. No. 55-1, at 12-14.

4. Plaintiff shall also explain whether he disclosed any communications and/or information that occurred and/or was generated during the July 21, 2022

¹ According to the motion, Attorney Michael G. Mann – Plaintiff’s counsel of record in this case – was also Plaintiff’s counsel of record at the July 21, 2022 mediation, and Plaintiff does not dispute this fact in his response. *See* Doc. Nos. 55, 73.

mediation to any person other than his counsel of record in this case. If Plaintiff did disclose such communications and/or information to other persons, Plaintiff shall identify the dates, times, and manner of disclosure, as well as the identities of the person(s) he disclosed the communications and/or information to. This includes any summaries of communications made and/or information generated during the July 21, 2022 mediation. *See* Doc. No. 55-1, at 17; Doc. No. 64, at 3.

Plaintiff may attach to his affidavit any evidence he wishes the Court to consider with respect to the questions raised in this Order. Should Plaintiff fail to answer in his affidavit any of the questions posed in this Order, or if Plaintiff asserts his Fifth Amendment right against self-incrimination with respect to any of the questions posed in this Order, the Court will treat any non-responses as a negative inference for that specific fact issue, and will consider any such negative inferences in resolving Defendant's motion for sanctions. Doc. No. 55. Plaintiff is also on notice that the Court will consider this affidavit, along with all other evidence already provided to the Court, in considering all of the pending motions for sanctions, *see* Doc. Nos. 55, 57, 61, and that all available sanctions under both Federal Rules of Civil Procedure 16(f), 37(b), and the Court's inherent authority are being considered in reaching an appropriate resolution of the motions, up to and including dismissal of the case in its entirety.

DONE and ORDERED in Orlando, Florida on March 1, 2024.

Handwritten signature of Leslie Hoffman Price in blue ink.

LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties