STATE OF IDAHO )
County of KOOTENAI )ss

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AT 12:55 O'Clock P. M
CLERK OF DISTRICT COURT

Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

**JOSHUA MILEHAM, an individual; CALLIE MILEHAM, an individual; and ARTISTRY PEOXY LLC, a Texas limited liability company,**

*Plaintiffs*,

vs.

**DAVID McCULLOUGH, an individual; DIY EPOXY COUNTERTOPS, INC., an Idaho corporation; and MAKAYLA JORDAN, an individual,**

*Defendants*.

Case No. **CV28-22-4630**

**MEMORANDUM DECISION AND ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION TO COMPEL DISCOVERY RESPONSES OF DEFENDANT DAVID McCULLOUGH**

This is before the Court on a motion to compel, brought by plaintiffs, Joshua Mileham ("Mileham") Callie Mileham, and Artistry Epoxy, LLC (plaintiffs), against defendants, David McCullough ("McCullough") and DIY Epoxy Countertops, Inc. Plaintiffs are represented by David Bingham. Defendants McCullough and DIY Epoxy Countertops, Inc. are both represented by Gary Cooper and John Oborn. Defendant Makala Jordan is represented by Sean King. The motion does not pertain to defendant Makala Jordan. At oral argument on this motion, counsel for Makala Jordan stated Makala Jordan takes no position on plaintiffs' motion to compel.

## I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Plaintiff Mileham and defendant McCullough were previously in business together as the two owners of DIY Epoxy Countertops, Inc. Mot to Compel 1 ¶ 1; Opp'n to Mot. to Compel 2. After disputes arose, Mileham left to operate a separate, competing company. *Id.* at ¶ 2; Opp'n to Mot. to Compel 2. The parties disagree on

what caused the dispute, and they disagree on the terms of Mileham leaving. Later, Mileham and McCullough were involved in a lawsuit different than the one currently before this Court. *Id.* at 3 ¶ 5; Opp'n to Mot. to Compel 2. According to both parties, that matter resolved on August 11, 2021, in a confidential settlement agreement; the terms of such agreement are unknown to the Court. Compl. 8 ¶ 46; Mot. to Compel 3 ¶ 6; Opp'n to Mot. to Compel 2. Neither party has asked this Court to take judicial notice of that prior lawsuit.

On August 5, 2022, Mileham filed a Complaint initiating the current lawsuit, alleging a breach of the confidential settlement agreement, defamation, intentional interference with a business expectancy, and intentional interference with a business relationship. *See* Compl.; Mot. to Compel 3 ¶ 8; Opp'n to Mot. to Compel 2. On September 7, 2022, McCullough and Epoxy Countertops, Inc. filed their Answer to Complaint and Affirmative Defenses and amended such on September 28, 2022.

On January 12, 2023, Mileham filed a Notice of Service stating that plaintiffs' First Set of Interrogatories and Requests for Production to David McCullough were served. McCullough claims he answered that discovery on February 15, 2023, and then "[i]t was supplemented on April 5, 2023, and April 13, 2023 and again on June 19, 2023. The supplementation was clarified in a July 14, 2023 letter to Plaintiff's counsel." Opp'n to Mot. to Compel 5 (citing to Oborn Decl., Ex. 4, 7). Mileham claims that there have been two telephone discovery conferences to discuss the compliance with the discovery rules with McCullough. Mot. to Compel 3, ¶ 11. Mileham alleges that these took place March 20, 2023, and May 24, 2023. *Id.* Mileham additionally provides that there were numerous e-mails attempting to discuss the discovery responses: "These emails occurred on February 27, 2023; May 12, 2023; May 17, 2023 (twice), May 22, 2023; May 23, 2023; August 15, 2023; November 3, 2023; November 17, 2023, and

December 19, 2023." *Id.* at 3-4, ¶ 12; *See also* Bingaman Decl., Ex. A.

On December 28, 2023, Mileham filed a Motion to Compel Discovery Responses with Supporting Memorandum, and a Declaration of David Bingham in Support of the Motion to Compel. On January 5, 2023, McCullough filed an Opposition to the Motion to Compel, and the Declaration of J.D. Oborn.

A hearing on Mileham's motion to compel was held on January 12, 2024. After oral argument, this court took the motion under advisement. The court trial in this case is scheduled to begin June 20, 2024.

## II. STANDARD OF REVIEW AND BURDEN OF PROOF

As to discovery issues, such as the propriety of a motion to compel, "the decision of the trial court will only be reversed when there has been a clear abuse of discretion." *Doe v. Shoshone-Bannock Tribes*, 159 Idaho 741, 745, 367 P.3d 136, 140 (2016). When reviewing a lower court's decision for an abuse of discretion, the Idaho Supreme Court analyzes "[w]hether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason." *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018).

## III. ANALYSIS

Mileham requests this Court compel McCullough, pursuant to Idaho Rule of Civil Procedure 37(a), to provide full and complete responses to the discovery requests at issue, namely, in the first set of discovery: Interrogatory No. 8; Interrogatory No. 9; and Request for Production No. 9 through 15; and in the second set of discovery: Interrogatory No. 1; and Request for Production No. 1. Mot. to Compel 6-13.

McCullough claims he, "has produced the documents in his possession, custody

and control that are responsive to the propounded discovery and has not withheld any documents based on an objection." Opp'n to Mot. to Compel 1.

The Court will address each discovery request in turn.

**A. Preliminary Matter**

There are multiple claims throughout McCullough's Opposition to the Motion to Compel which focus on issues that are not relevant to deciding the motion currently in front of the Court: Mileham's Motion to Compel. For example, McCullough claims "Plaintiffs do not have legitimate claims against the Defendants. Instead, they are using litigation to gain a competitive advantage;" (Opp'n to Mot. to Compel 3), and "Plaintiffs are also pretending to be the victims." (*Id.*); ". . . all but one of these [allegedly defamatory] statements were made on or before June 29, 2021, which is before the parties entered into the Confidential Settlement Agreement and Mutual Release that settled all claims between the parties;" (*Id.* at 2); "Plaintiffs are refusing to provide documentation regarding their damage claims while alleging that the Defendants are the ones abusing discovery rules;" (*Id.* at 4); "In the second set of discovery to Artistry Epoxy all business income statements, financial statements and tax returns from five years before the lawsuit until the present were requested. None of those records were produced." *Id.* at 5.

While these ad hominem arguments may be relevant to other issues in this lawsuit, the comments and allegations are simply not relevant to Court's determination of Mileham's motion to compel against McCullough. McCullough has not filed a motion to compel against Mileham or plaintiff Artistry Epoxy, nor has McCullough file any sort of dispositive motion in this matter. Because these comments found in McCollough's opposition brief are not relevant to the current motion, the Court will not address any of the above, or any additional asides made by McCullough in his briefing.

Mileham's aspersions are not much better. Counsel for Mileham argues: "The evasive conduct of Mr. McCullough here is front and center. This is a defamation case where Mr. McCullough is now actively concealing communications in an attempt to evade judgment against himself and his company." Mot. to Compel 15. At least these arguments were made by Mileham's counsel in the context of attorney fees, but as discussed below, Mileham's claims that, "Mr. McCullough's discovery responses are made in bad faith, and an award of costs and attorney fees is proper" (*Id.*), does nothing to assist this Court in deciding Mileham's motion to compel, and, as discussed below, misses the mark on attorney fees in a discovery dispute.

**B. Analysis of Plaintiff Mileham's Motion to Compel**

**1. First Set of Discovery Requests, Interrogatory No. 8**

Mileham moves this Court to compel McCullough to answer the following interrogatory:

> INTERROGATORY NO. 8: Please describe with particularity each and every contract or agreement between you and Kimberly Martin.

Mot. to Compel 6. (formatting altered). Mileham alleges that McCullough's response was not adequate because:

> The first response was as follows:
>
> > Kimberly Martin is an affiliate and **may have** signed an affiliate agreement or application. David does not have a copy of any such agreement in his possession, custody or control at this time. If one is located it will be provided. (Emphasis added.)
>
> The second response was as follows:
>
> > No written agreement with Kimberly Martin has been discovered. However, the **typical agreement** with affiliates was that the affiliate tag DIY in 1/3 of their social media posts. The affiliate should be active on DIY's social media platforms by commenting and sharing. Affiliates, if possible, should engage with events that DIY conducts or participates in. Affiliates should not promote other epoxy brands or engage in any bullying or harassment. DIY agreed to occasionally add affiliate products to social media, ads and tutorials. DIY would occasionally send affiliates free epoxy, pigments, micas, kits and other products. **DIY provided affiliates**

> with a 10% discount code that they could use themselves and provide to their followers. **DIY affiliates typically** are given a 20% discount for their own purchases. **Affiliates are paid** a commission of 5-10% for each sale they generate. (Emphasis added.)
>
> The initial response provided no details. Then, the supplemental response, rather than providing details relating to contracts and agreements with Ms. Martin, gave generic information concerning others.

Mot. to Compel 6-7. (formatting altered). Mileham continues:

> This interrogatory is important to this case because Ms. Martin was being paid by Mr. McCullough and his company while Ms. Martin was defaming Mr. and Mrs. Mileham and the Mileham's company. Given the magnitude of defamation that Ms. Martin demonstrated on behalf of Mr. McCullough, it is clear that Mr. McCullough is intentionally concealing material evidence of his agreements with Ms. Martin to defame Plaintiffs.

*Id.* at 7.

In response, McCullough alleges that he:

> fully answered this interrogatory about any agreement with Kimberly Martin. As stated in the response, there are no records of a written agreement with Kimberly Martin. David McCullough identified the standard terms of agreements between DIY and affiliates. Plaintiffs want information specific to Ms. Martin but there is no more information specific to Ms. Martin. Plaintiffs assert without any factual basis that Mr. McCullough is intentionally concealing evidence. He has not deposed Ms. Martin or subpoenaed records from her. This is a specious allegation and the interrogatory was answered in good faith and properly supplemented.

Opp'n to Mot. to Compel. 7.

McCullough provides that Kimberly Martin is an affiliate, who may have signed a written affiliate agreement that he has been unable to discover. McCullough then discusses a typical agreement with an affiliate; however, he does not describe the agreement specific to Kimberly Martin. The interrogatory is not asking for the record of the written agreement, but instead asks McCullough for a description of the contract or agreement between McCullough and Kimberly Martin. McCullough's wording provides that there is one, and thus, this Court finds McCullough is compelled to provide a description of the contract or agreement that underlines his statement that Kimberly

Martin is an affiliate.

Mileham's Motion to Compel as it relates to Interrogatory No. 8 in the first set of discovery requests is GRANTED.

**2. First Set of Discovery Requests, Interrogatory No. 9**

Mileham moves this Court to compel McCullough to answer the following interrogatory:

> INTERROGATORY NO. 9: Please describe with particularity, including the date sent, amount sent, and the means by which such was sent for each and every payment or other type of compensation that you transferred to Kimberly Martin or an entity owned, operated, or controlled by Kimberly Martin.

Mot. to Compel 7. (formatting altered). Mileham alleges that McCullough's response was not adequate because:

> The first response was as follows:
>
> > Objection. This interrogatory seeks information that is not relevant to any claim or issue raised in the pleadings and it is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, it seeks information that is confidential and a trade secret for DIY Epoxy and would provide a competitive advantage to competitors including Artistry Epoxy LLC. Without waiving any objection, payments are made to Kimberly Martin from DIY Epoxy based on her commission.
>
> The second response was as follows:
>
> > Without waiving the prior objection, Kimberly Martin would have been paid a commission of 5-10% of each sale she generated.
>
> This interrogatory is in the same vein as the preceding Interrogatory No. 8. While the preceding interrogatory requested the contracts and agreements that were made with Ms. Martin, this interrogatory then requests the compensation that was paid to Ms. Martin.
> Initially, there was no response – only meritless objections. The initial objections, i.e. relevancy and trade secrets, clearly lack merit and are intentionally designed to conceal Mr. McCullough compensating Ms. Martin to defame Plaintiffs.
> The supplemental response that "Kimberly Martin would have been paid a commission of 5-10% of each sale she generated" is even more telling of the intentional concealment. This interrogatory should be easy to provide a response for legitimate commission payments – but here, Mr. McCullough is refusing to provide the amounts that he compensated Ms. Martin – who was actively defaming Plaintiffs in their competing business.

*Id.* at 7-8. (formatting altered).

> In response, McCullough argues that:
>
> The compensation paid to Ms. Martin is not relevant to any claim or defense nor is it likely to lead to the discovery of admissible evidence. The objection is a valid objection. Plaintiffs have not provided any argument as to why the information is relevant to any issue in this case. It is sufficient information to know that Ms. Martin was paid a commission based on sales she generated.

Opp'n to Mot. to Compel 7.

Idaho Rule of Civil Procedure 26(b)(1)(A) provides the general scope of discovery as follows:

> Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is **relevant** to any party's claim or defense, including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

*Id.* (bold added). Idaho Rule of Evidence 401 defines relevant evidence as follows:

> **Rule 401. Test for Relevant Evidence.**
> Evidence is relevant if:
> (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
> (b) the fact is of consequence in determining the action.

In discovery, relevant evidence is defined more broadly in I.R. C.P. 26(b)(1)(A):

> **(b) Discovery Scope and Limits.**
> **(1) In General.**
> **(A) General Scope of Discovery.** Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense, including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. **Relevant information need not be admissible at the trial if the discovery appears reasonably calculated**

**to lead to the discovery of admissible evidence.**

(bold added).

Mileham's Complaint in this matter alleges that that, "Mr. McCullough did publish or caused to be published false and defamatory statements of or concerning Mr. Mileham to third parties." Compl. 9, ¶ 50. In Mileham's Motion to Compel, he claims that, "Ms. Martin was being paid by Mr. McCullough and his company while Ms. Martin was defaming Mr. and Mrs. Mileham and the Mileham's company." Mot. to Compel 7. The determination of when Kimberly Martin was being paid by McCullough could lead to the discovery of admissible evidence that McCullough paid Kimberly Martin to defame Mileham.

Mileham's Motion to Compel as it relates to Interrogatory No. 9 of the first set of discovery requests is GRANTED.

**3. First Set of Discovery Requests, Requests for Production No. 9- 15**

Mileham moves this Court to compel McCullough to answer the following Requests for Production:

> REQUEST FOR PRODUCTION NO. 9: Please produce all postings, records, emails, and communications relating to you [McCullough] posting online regarding Artistry Epoxy LLC.
> REQUEST FOR PRODUCTION NO. 10: Please produce all postings, records, emails, and communications relating to you [McCullough] posting online regarding Callie Mileham.
> REQUEST FOR PRODUCTION NO. 11: Please produce all postings, records, emails, and communications relating to you [McCullough] posting online regarding Joshua Mileham.
> REQUEST FOR PRODUCTION NO. 12: Please produce all records, emails, social media posts, and communications between you [McCullough] [sic "and"] all other people relating to Kimberly Martin.
> REQUEST FOR PRODUCTION NO. 13: Please produce all records, emails, social media posts, and communications between you [McCullough] [sic "and"] all other people relating to Artistry Epoxy LLC.
> REQUEST FOR PRODUCTION NO. 14: Please produce all records, emails, social media posts, and communications between you [McCullough] [sic "and"] all other people relating to Joshua Mileham.
> REQUEST FOR PRODUCTION NO. 15: Please produce all records,

> emails, social media posts, and communications between you [McCullough] [sic "and"] all other people relating to Callie Mileham.

Mot. to Compel 9. (formatting altered). In support of the Motion to Compel, Mileham argues:

> McCullough produced 1,009 pages of text message and Facebook communications – yet his marketing manager, Makayla Jordan, has stated under penalty of perjury that the majority of her communications on behalf of Mr. McCullough and his company were through TikTok. Clearly, the responses by Mr. McCullough are knowingly false and made in bad faith to conceal material evidence in this case. As such, he should be ordered to provide a full and complete response and the objection should be stricken.

*Id.* at 12.

The Requests for Production in this matter are asking defendant McCullough to produce his communications. In support of Mileham's assertion that there are more communications than what has been provided, he provides that co-defendant Makayla Jordan stated that she had communicated on his behalf and the behalf of the final co-defendant, DIY Epoxy Countertops, Inc. on other platforms than what was disclosed.

In opposition to the Motion to Compel, McCullough argues, in part, that he, "did not spend all of his time communicating with people regarding the Plaintiffs. There simply are not documents responsive to the requests for production." Opp'n to Mot. to Compel 7-8.

This Court finds the Requests for Production above ask McCullough to disclose what he had posted, and McCullough has stated that he has provided all the communications. The argument around Mileham's Motion is that other co-defendants might have communicated on other apps: "Here, Mr. McCullough produced 1,009 pages of text message and Facebook communications – yet his marketing manager, Makayla Jordan, has stated under penalty of perjury that the majority of her communications on behalf of Mr. McCullough and his company were through TikTok."

Mot. to Compel 12 (underlining added by the Court). The disclosure of Makayla Jordan's communications is simply is not relevant to these Requests for Production made by Mileham to McCullough and McCullough's responses to such. Makayla Jordan is a co-defendant with McCullough. Mileham's motion to compel clearly pertains only to McCullough and not to Makayla Jordan.

McCollough states there are no documents responsive to Mileham's requests for production. Opp'n to Mot. to Compel 8. McCollough cannot produce that which he does not possess. Mileham's Motion to Compel as it relates to Requests for Production 9, 10, 11, 12, 13, 14, and 15 is DENIED.

**4. Second Set of Discovery Requests, Interrogatory 1**

Mileham moves this Court to compel McCullough to answer the following Interrogatory:

> INTERROGATORY 1: Please identify the name, address, and telephone numbers of all persons and entities that performed any type of service, editing, drafting, coding, or maintenance on the diyepoxy.com website from August 1, 2021, to current. Please include the dates for when such was provided.

Mot. to Compel 12. (formatting altered). In response, McCullough objected, but Mileham acknowledges that ultimately, McCullough answered the interrogatory. *Id.* According to Mileham, McCullough's answer was:

> Objection. This interrogatory seeks information that is no relevant to any issues in dispute in this case and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving any objection to following individuals have performed service, editing, drafting, coding, or maintenance on the diyepoxy.com website from August 1, 2021 to the present:
>
> Mikayla Jordan, c/o her counsel
> Dustin Silva, 909-499-1333
> Cinder Yousey, 208-660-3417

*Id.* at 12-13. Incredulously, in his Motion to Compel, counsel for Mileham requests that this Court strike the objection, and require the defendant to supplement the discovery.

Keep in mind that Mileham is not asserting that there are more individuals not disclosed, but instead that:

> The objection by Defendant's counsel is meritless and intended to obstruct the discovery process. Here, Defendant maliciously published to the public that Mr. Mileham caused harm to a company website. Obviously, the individuals who work on the website are material to the falsity of the statement. However, Defendant uses an objection to conceal this material evidence.
>
> Accordingly, the objection should be stricken and defendant should be ordered to supplement this discovery response.

*Id.* This Court is not going to rule on an objection in a discovery dispute. What is at issue in a discovery dispute is whether or not discovery was produced. McCullough, after his objection, clearly answered Mileham's interrogatory. There is nothing about McCullough's counsel's objection that indicates that McCullough was limiting his answer in any way. Thus, it would be pointless for this Court to address McCullough's counsel's objection. Since the interrogatory was answered, Mileham's Motion to Compel is completely devoid of merit on this issue. Mileham's Motion to Compel as it relates to Interrogatory 1 of the second set of discovery requests is DENIED.

**5. Second Set of Discovery Requests, Request for Production 1**

Mileham moves this Court to compel McCullough to answer the following Request for Production:

> REQUEST FOR PRODUCTION 1: Produce all documents related to Interrogatory No. 1, including, but not limited to, all correspondence, emails, text messages, and invoices.

Mot. to Compel 13. (formatting altered). Mileham claims that:

> The response was as follows:
>
> > Objection. This request seeks information that is not relevant to any issues in dispute in this matter and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving any objection, see the documents provided herewith
>
> This discovery request is in the same vein as the preceding Interrogatory No. 1. This request now seeks the documents related to those who worked on the company website.

> The objection here is similarly improper, as it is with Interrogatory No. 1. This is a defamation case, whereby this is yet another instance of Mr. McCullough maliciously publishing to the public that Plaintiff, Joshua Mileham, caused harm to a company website. This is defamation per se, which Mr. McCullough now attempts to conceal with an improper objection and active concealment of the truth. Further, the documents that Mr. McCullough does provide are not even in the same year as the events at issue. This instance of defamation occurred prior to 2023 – yet Mr. McCullough only provides a handful of emails between February 25, 2023, and March 29, 2023. Further, Bates numbered 'McCullough 1906' appears to be a page of redacted documents without any explanation whatsoever.

*Id.* at 13-14.

> In response, McCullough argues that:
> Plaintiffs claim that David did not produce any communications with people that worked on the website. However, hundreds of pages of text messages and other communications with Makalya Jordan were produced by David and Makayla that discuss her work on the website. Dustin Silva and Cinder Yousey did not work on the website until 2023. The communications with them that pertained to work on the website or any issue in this case were provided. Almost all communications occurred via telephone calls and not through written communications.

Opp'n to Mot. to Compel 8.

McCullough claims that the relevant documents have been provided. Again, this Court cannot compel a party to produce what it does not have. Mileham's Motion to Compel as it relates to Interrogatory 1 of the second set of discovery requests is DENIED.

**C. Attorney Fees**

Mileham requests that this Court award his reasonable expenses under Idaho Rule of Civil Procedure 37(a)(5). Mot. to Compel 14-16. As mentioned above, counsel for Mileham argues: "The evasive conduct of Mr. McCullough here is front and center. This is a defamation case where Mr. McCullough is now actively concealing communications in an attempt to evade judgment against himself and his company." Mot. to Compel 15. Continuing, Mileham's claims that, "Mr. McCullough's discovery

responses are made in bad faith, and an award of costs and attorney fees is proper." *Id.* Such argument entirely misses the mark on attorney fees in a discovery dispute. A terse summary of I.R.C.P. 37(a)(5), would be "the prevailing party in a discovery motion brought under I.R.C.P. 37 wins their attorney fees against the opposing party." You win your discovery motion, you win attorney fees. Pretty simple. "Evasive conduct", "concealing communications" and "bad faith", do not enter into this Court's analysis on attorney fees.

Idaho Rule of Civil Procedure 37(a)(5)(c) provides:

> **(C) If the Motion Is Granted in Part and Denied in Part.** If the motion is granted in part and denied in part, the court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion.

IRCP 35(a)(5)(C). Both parties have been heard on this issue. Counsel for McCullough simply argued: "Plaintiff[']s request for fees should be denied. David McCullough should not be compelled to answer discover he has already answered." Opp'n to Mot. to Compel 9. Obviously McCullough's counsel understands the "winner take all" concept inherent in attorney fees in a discovery dispute under I.R.C.P. 37. But the problem for both parties in this motion is there is no clear winner. The Court has granted some of Mileham's requested relief, and denied some of such. Each side prevailed in part and lost in part. The Court uses its discretion and declines to award attorney fees to either party.

## IV. CONCLUSION AND ORDER.

For the foregoing reasons,

IT IS HEREBY ORDERED Plaintiff Joshua Mileham's Motion to Compel is **GRANTED IN PART** as it relates to Interrogatory 8 and Interrogatory 9.

IT IS FURTHER ORDERED Plaintiff Joshua Mileham's Motion to Compel is

**DENIED IN PART** as it relates to Interrogatory 1, Request for Production 1, Request for Production 9, Request for Production 10, Request for Production 11, Request for Production 12, Request for Production 13, Request for Production 14, and Request for Production 15.

IT IS FURTHER ORDERED that neither Mileham nor McCullough are awarded any attorney fees.

Entered this 2nd day of February, 2024.

John T. Mitchell, District Judge

**Certificate of Service**

I certify that on the 2nd day of February, 2024, a true copy of the foregoing was mailed postage prepaid or was sent by email, interoffice mail or facsimile to each of the following:
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