

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

GEORGE A. SHORT,
Plaintiff

v.

MICHAEL CHERTOFF, SECRETARY
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,
Defendant

Civil Action No. 05-01034 (RMU)

MOTION FOR LEAVE TO FILE MOTION TO COMPEL

Pursuant to the Court's Standing Order, defendant respectfully requests leave to file a motion to compel plaintiff to answer defendant's Interrogatories and Requests for Documents and to compel plaintiff to appear for deposition prior to the close of discovery.

As is discussed in the attached motion to compel, on May 3, 2007, defendant served on plaintiff its first set of interrogatories and document requests. A response was due within 30 days. Plaintiff has not responded to defendant's discovery requests. After the deadline expired, plaintiff failed to deliver the responses as agreed by the end of last week and failed to deliver the responses as requested at the beginning of this week. Defendant had advised plaintiff's counsel that defendant would seek the assistance of the Court if the discovery responses were not supplied. Yesterday, June 12, 2007, plaintiff's counsel represented that the responses will be delivered at the end of this week, although plaintiff's counsel also has represented that she will be unavailable, due to a vacation beginning on June 14, 2007.

Defendant also has attempted to schedule the deposition of plaintiff prior to the close of discovery. Plaintiff's counsel had represented that she is unavailable for deposition beginning on June 14 until mid-July. On June 6, 2007, defendant served a notice to take the deposition of plaintiff on June 13, 2007. Plaintiff's counsel then responded that she was not available for deposition on June 13.¹

On June 12, 2007, plaintiff's counsel advised that she had contacted the Court to arrange a telephone conference on June 12 so that these discovery matters could be discussed with the Court. Although defendant's counsel was available, no such tele-conference occurred, and plaintiff filed a motion for a protective order pertaining to the deposition at approximately 5:10 pm on June 12.

Therefore, defendant respectfully requests leave to file a motion to compel the plaintiff to respond to its discovery requests and to compel plaintiff to appear for deposition prior to the close of discovery or at a date to be set by the Court.

Respectfully submitted,

/s/
JEFFREY A. TAYLOR, D.C. Bar #498610
United States Attorney

/s/
RUDOLPH CONTRERAS, D.C. Bar #434122
Assistant United States Attorney

/s/
RHONDA C. FIELDS
Assistant United States Attorney
Civil Division
555 Fourth Street, N.W.
Washington, D.C. 20530
202/514/6970

¹ Plaintiff has not filed any written discovery requests. Plaintiff has not noticed any depositions.

