IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BRANDI N. WESLEY,

        Plaintiff,

   v.   Case No. 06-4070-SAC

MP NEXT LEVEL,

        Defendants.

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ORDER DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION TO COMPEL

This matter comes before the court upon defendant's Motion to Compel (Doc. 18). Upon

reviewing defendant's motion, the court finds that further responses are not necessary and is

prepared to rule.

Discussion

  D. Kan. R. 37.1(a) provides:

> Motions under Fed. R. Civ. P. 26(c) or 37(a) directed at depositions,
> interrogatories, requests for production or inspection, or requests for admission
> under Fed. R. Civ. P. 30, 33, 34, or 36 or at the responses thereto, *shall be*
> *accompanied* by copies of the notices of depositions, the portions of the
> interrogatories, requests or responses in dispute (emphasis added).

In this case, while defendant attaches several exhibits to its motion, defendant fails to attach the

specific interrogatories or requests for production that are the subject of its motion to compel.

Due to defendant's failure to attach to his motion "the portions of the interrogatories, requests, or

responses in dispute," the court is unable to ascertain and moreover will not speculate as to

whether discovery is appropriate. Therefore, the court finds that defendant's motion should be

denied.

However, such denial shall be without prejudice, affording defendant the full opportunity to re-file its motion in full compliance with D. Kan. R. 37.1. The court will therefore deny defendant's motion without prejudice, directing defendant to re-file its motion within seven (7) days of entry of this order. Accordingly,

IT IS THEREFORE ORDERED that defendant's Motion to Compel (Doc. 18) is hereby denied without prejudice; and

IT IS FURTHER ORDERED that defendant shall re-file its motion to compel within seven (7) days from entry of this order, on or before **April 27, 2007**.

IT IS SO ORDERED.

Dated this 19th day of April, 2007, at Topeka, Kansas.

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s/ K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge
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