

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION AT LEXINGTON  
CASE NO. 5:18-CV-00351-KKC**

**NICHOLAS BREINER**

**PLAINTIFF**

**v.**

**BOARD OF EDUCATION OF  
MONTGOMERY COUNTY, KENTUCKY**

**DEFENDANT**

**MOTION FOR PRE-TRIAL CONFERENCE  
AND MOTION TO COMPEL**

Comes now the Plaintiff, by and through Counsel, and moves the Court to schedule a Pre-Trial Conference at the Court's earliest convenience. The Plaintiff also submits his Motion to compel the Defendant to answer the discovery that was propounded to the Defendant in September 2021. The discovery deadline was August 30, 2022 (D.E. 37).

On January 9, 2023, the Petitioner moved the Court for an Order compelling the Defendant to answer discovery which was served in September 2021. The Motion was denied because the Court was not satisfied that the Plaintiff had attempted to resolve the discovery dispute with the Defendant's counsel prior to filing the Motion. The Plaintiff's Motion was denied without prejudice.

The Plaintiff again is filing a Motion to Compel. The Plaintiff also is presenting the efforts that the Plaintiff has made to reach out to the Defendant about the late answers to discovery.

1. March 8, 2021: Plaintiff e-mails Defendant about scheduling depositions. The Plaintiff's deposition was scheduled for November 2021.
2. November 3, 2021: Defendant cancels deposition of Plaintiff Breiner due to an undefined situation.

3. March 23, 2022: Plaintiff e-mailed Defendant concerning the late answers to the discovery requests. The Defendant did not respond.
4. June 23, 2022: Plaintiff e-mails Defendant concerning answers to the overdue discovery. The Defendant did not respond.
5. July 8, 2022: Defendant writes to Plaintiff acknowledging that the discovery is overdue. The Defendant states he will have the discovery to Plaintiff as soon as possible.
6. March 6, 2023: Plaintiff writes to Defendant requesting when Defendant will be providing discovery responses. Defendant did not respond.
7. March 15, 2023: Plaintiff wrote to Defendant requesting that the discovery be provided by March 21, 2023. The Defendant did not respond to the Plaintiff's March 15, 2023 letter.

The chronology presents the Plaintiff's patience with the Defendant in their failure to timely answer discovery. The Plaintiff's letter of March 15, 2023 requesting the discovery within a week was not meant to harass the Defendant but only to generate some sort of acknowledgment from the Defendant that the discovery answers would soon be forwarded.

The Plaintiff also requests the Court schedule a Pre-Trial Conference to discuss the scheduling of the Trial. The Plaintiff's Trial is currently set for May 30, 2023 which, at this point, is improbable to go forward.

The Plaintiff respectfully requests the Court order the Defendant to provide a date certain for answering the Plaintiff's discovery requests.

Respectfully Submitted,

/s/ Edward E Dove

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### **CERTIFICATE OF SERVICE**

This certifies that a true copy of the foregoing has been served upon the following via electronic mail on this the 30<sup>th</sup> day of March 2023:

Hon. John G. McNeill  
Landrum & Shouse LLP  
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/s/ Edward E Dove

EDWARD E. DOVE

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**ORDER**

This matter comes before the Court on the Plaintiff's Motion to Compel Discovery. The Plaintiff also requests a Pre-Trial Status Conference to discuss the discovery dispute and to discuss the upcoming Trial date.

The Court having heard no objection, now schedules a Pre-Trial Status Conference for \_\_\_\_\_ of \_\_\_\_\_, 2023.

SO ORDERED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023.

\_\_\_\_\_  
Magistrate Judge Matthew Stinnett