

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

LUIS V. ROJAS,
Plaintiff,

v.

JESUS GUADARRAMA, et al.,
Defendants.

CASE NO. 3:21-cv-573 (MPS)

AUGUST 27, 2021

RULING ON PLAINTIFF’S MOTIONS TO COMPEL

Plaintiff Luis V. Rojas has filed three motion seeking to compel the defendants to produce documents and respond to interrogatories. In his first motion, ECF No. 28, the plaintiff asks the court to order defendants to provide various documents and surveillance footage. He states that he initially requested some of this information in January 2021 and attached copies of FOI requests to his complaint as Exhibit E. He further states that he requested the information in discovery requests dated July 26, 2021 and August 10, 2021. In the second motion, ECF No. 29, the plaintiff seeks more complete responses for five interrogatories to which defendant Guadarrama objected. The third motion, ECF No. 31, is a duplicate of the first.

Federal Rule of Civil Procedure 37 requires that a motion to compel “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” Fed. R. Civ. P. 37(a)(1). The plaintiff does not state in any motion that he contacted counsel in a good faith effort to resolve the issues. Thus, all three motions are denied for failure to comply

with the requirements of Rule 37(a).

In addition, although the plaintiff requested materials from the first and third motions by FOI request, that is not discovery as contemplated under the Federal Rules of Civil Procedure. *See Dismuke v. Long*, No. 3:16cv1336(MPS), 2017 WL 3444678, at *2 (D. Conn. Aug. 10, 2017) (“The process of obtaining documents through FOIA requests is independent of the discovery process....”); *Republic of Columbia v. Diageo North America, Inc.*, No. CV-04-4372(NGG)(VVP), 2007 WL 3274882, at *1 (E.D.N.Y. Nov. 5, 2007) (noting that court does not consider obtaining information through FOIA requests to be discovery). The plaintiff states that he only drafted discovery requests for these materials in July and August 2021, and the defendants state they have yet to receive the requests. As the response time for the discovery requests has not yet expired, the first and third motions also are denied as prematurely filed.

The plaintiff’s motions to compel [ECF Nos. 28, 29, 31] are **DENIED**.

SO ORDERED at Hartford, Connecticut, this 27th day of August 2021.

/s/
Michael P. Shea
United States District Judge