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| **IN THE STATE COURT OF GWINNETT COUNTY STATE OF GEORGIA** | |
| **Adam Rangel,**  Plaintiff,  v.  **Discount Tire Company of Georgia, Inc**.,  Defendant*.* | Case No.  18C01959-3  **Plaintiff’s Motion to Compel and for Attorney’s Fees** |
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Defendant Discount Tire inexplicably refuses to provide the names and contact information of important witnesses. Despite Plaintiff’s efforts to obtain this information without Court intervention, Discount Tire has regrettably forced Plaintiff to file this Motion. The Court should order Discount Tire to provide the names and contact information for certain witnesses.

1. **Background: how we got here.**

On July 30, 2016, Plaintiff hired Discount Tire to install and attach tires on his car. On August 14, 2016, Plaintiff was driving down the road when his right front tire flew off his car. Plaintiff crashed and sustained severe injuries.

Discount Tire has admitted each of the following allegations: 

(Discount Tire’s Amended Answer).

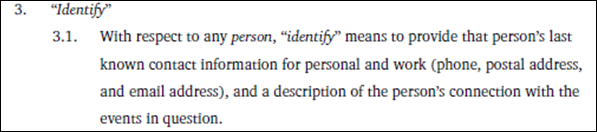
After the Crash, doctors diagnosed Plaintiff with a complete right rotator cuff tear. Doctors recommended, and he underwent, surgery to repair his right rotator cuff. He also underwent injections to his spine as a result of the Crash. While these procedures helped relieve Plaintiff’s symptoms, he continues to have pain. To date, Plaintiff has incurred more than $150,000.00 in medical treatment.

Plaintiff served 27 narrowly-tailored interrogatories (“ROGs”). By Plaintiff’s count, Discount Tire asserted 97 objections to the 27 ROGs, and almost all of the objections were improper. For example, ROG 20 asked Discount Tire to “identify all witnesses who saw any part of the crash.” Discount Tire asserted 8 inapplicable objections:



After an initial 6.4(b) letter that discussed the overwhelming number of improper objections, as well as Discount Tire’s failure to fully and completely respond to the ROGs, Discount Tire agreed to amend its responses. (Discount Tire’s Amended ROG responses are attached as Exhibit 1).

In its amended responses, Discount Tire still failed to provide the names and contact information of important witnesses. Plaintiff asked Discount Tire to identify witnesses by providing each person’s name, contact information, and brief description of the person’s connection with the case:



In ROG 18, Plaintiff asked Discount Tire to identify every person who worked at the Discount Tire location on the date Plaintiff’s vehicle was serviced:



Discount Tire provided the names of 4 witnesses, but it did not provide any contact information. Further, Discount Tire did not provide the names or contact information for the 14 current/former employees who worked at the location that day.

In ROG 7, Plaintiff asked how Discount Tire first learned of Plaintiff’s Crash. Discount Tire said the “store manager” first learned:





Discount Tire, though, did not provide the name or contact information of the store manager.

In ROG 23, Plaintiff asked Discount Tire to identify who helped prepare Discount Tire’s ROG responses. Discount Tire responded by generally stating that “various representatives, agents, and employees” helped:



As such, Discount Tire failed to provide the names and contact information for the specific people who helped respond.

On May 22, 2018, Plaintiff sent Discount Tire an email, pursuant to USCR 6.4(b), asking Discount Tire to properly and fully identify the witnesses. Plaintiff sent a follow-up email on June 18, 2018. (Email chain attached as Exhibit 2). Discount Tire has not responded, so Plaintiff has no other option but to file this Motion.

1. **The Court should order Discount Tire to properly identify witnesses.**

A party may discover any non-privileged matter that is reasonably calculated to lead to the discovery of admissible evidence. O.C.G.A. § 9-11-26. When a party provides an evasive or incomplete answer, the Court may enter an order compelling discovery. O.C.G.A. § 9-11-37.

The names and contact information of witnesses who may have information about relevant issues in the case are discoverable. Specifically, the contact information of the employees who worked at the Discount Tire on the day Discount Tire failed to safely and correctly install Plaintiff’s tire (ROG 18) is likely to lead to the discovery of admissible evidence, and thus, is discoverable. The same is true for the names and contact information for the store manager who first learned of Plaintiff’s crashed (ROG 7) and those who helped Discount Tire respond to the ROGs (ROG 23). Further, Plaintiff is entitled to know the names and contact information of the 14 employees who worked at the Discount Tire on the day Discount Tire failed to properly attach Plaintiff’s tire (ROG 7)—these witnesses may have discoverable information regarding liability and potential punitive damages.

The Court should order Discount Tire to identify the following individuals by providing full names, personal and work addresses, phone numbers, and emails:

1. Phillip Adler (ROG 18)
2. Dion Lewis (ROG 18)
3. Matthew DeThomas (ROG 18)
4. Nathan Dematteis (ROG 18)
5. The store manager (ROG 7)
6. All representatives, agents, and employees who assisted in responding to Plaintiff’s Interrogatories to Discount Tire (ROG 23)
7. 14 current/former employees working at the Discount Tire location on July 30, 2016.
8. **The Court should award attorney’s fees against Discount Tire.**

When a Motion to Compel is successfully granted:

… the Court *shall*, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

O.C.G.A. § 9-11-37(a)(4)(A) (emphasis supplied).

The Court should award attorney’s fees against Discount Tire for the time and effort Plaintiff has expended in connection with this issue. There is no valid justification for why Discount Tire has refused to produce obviously discoverable information. There is also no valid justification for why Discount Tire refused to respond to Plaintiff’s 6.4(b) communications. And ultimately, there is no valid justification for why Discount Tire forced Plaintiff to file this Motion.

Plaintiff’s Counsel hourly rate is $400.00 per hour. Plaintiff’s Counsel has spent more than 4 hours on this issue: reviewing Discount Tire’s initial discovery responses and drafting a first 6.4(b) letter; reviewing Discount Tire’s amended discovery responses and drafting a second 6.4(b) letter; and research for and drafting this Motion. The Court should, after the opportunity for a hearing, award Plaintiff at least $1,600.00 for needless time and energy spent on this issue, which was directly and solely caused by Discount Tire’s unjustifiable position to not share discoverable information.