

United States District Court, M.D. Florida,
Jacksonville Division.
Jeremiah THOMAS, et al., Plaintiffs,
v.
James McDONOUGH, et al., Defendants.
No. 3:04-cv-917-J-32HTS.

Oct. 2, 2007.

Cassandra Capobianco, [Christopher Michael Jones](#),
Kristen Cooley Lentz, Gainesville, FL, Cullin Avram
O'Brien, [Randall Challen Berg, Jr.](#), Florida Justice
Institute, Inc., [Leon Fresco](#), Holland & Knight, LLP,
Miami, FL, [George E. Schulz, Jr.](#), [Michael Agliata](#),
Holland & Knight LLP, Jacksonville, FL, for
Plaintiffs.

[William Peter Martin](#), Dennis, Jackson, Martin &
Fontela, P.A., Tallahassee, FL, [J. Dixon Bridgers, III](#),
Vernis & Bowling Of North Florida, PA, [Todd T.
Springer](#), Luks, Santaniello, Perez, Petrillo & Gold,
Michael Lee Glass, Fulmer Leroy Albee Baumann &
Glass, [Michael D. Kendall](#), [Ronald S. Wasilenko](#),
Gobelman, Love, Gavin, Wasilenko & Broughan,
LLC, Jacksonville, FL, [Paul S. Jones](#), Luks,
Santaniello, Perez, Petrillo & Gold, Orlando, FL, for
Defendants.

ORDER

[HOWARD T. SNYDER](#), United States Magistrate
Judge.

*1 This cause is before the Court on Plaintiffs'
Reasserted Motion to Compel Production from
Defendants James McDonough and Randall Bryant
of Items Not Produced in Defendants' Responses to
Plaintiffs' Eighth Request to Produce, Nor in
Response to the Court's Order Dated August 10, 2007
(Doc. # 283; Motion). The Motion is opposed. *See*
Defendants James McDonough and Randall Bryant's
Response in Opposition to Plaintiffs' Reasserted
Motion to Compel Production (Doc. # 315;
Response).

In the Order (Doc. # 280; Order) entered on August
10, 2007, the Court compelled the production of "the
documents described in paragraphs 1-4 and 6-7 of
Plaintiffs' Eighth Request for Production *insofar as*
such exist within [Defendants'] possession, custody,

or control." Order at 4-5 (emphasis added). Each of
the requests at issue specifically sought "[o]ne
document" containing the desired information.
Plaintiffs' Eighth Request for Production to
Defendant McDonough, attached as the fifth exhibit
to the Motion, at 5. Plaintiffs, however, now contend
Defendants should be ordered to produce "data in any
form that is reasonably responsive to the spirit of
Plaintiffs' request." Motion at 10. Defendants claim
they "have complied with the court's August 10, 2007
order by producing those records and information
which could be produced in 'a single document[.]'"
Response at 5. ^{FN1}

^{FN1}. Plaintiffs' argument with respect to
production of use of force data between
November 1999 and October 2001, *see*
Motion at 10, is presumably now moot. *See*
Response at 5 n. 4.

While the Court recognizes Plaintiffs' asserted good
intentions in propounding the discovery, *see* Motion
at 4, the requests unambiguously demand that a
single document be produced in relation to each
category of information. Defendants will not be
forced to create a document that is not currently in
existence or produce data in a form that was not
requested. Accordingly, the Motion (Doc. # 283) is
DENIED.

DONE AND ORDERED.

M.D.Fla., 2007.

Thomas v. McDonough

Not Reported in F.Supp.2d, 2007 WL 2900437
(M.D.Fla.)

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