

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|                                    |   |                                     |
|------------------------------------|---|-------------------------------------|
| <b>JEPSON DARLEY,</b>              | ) |                                     |
|                                    | ) |                                     |
| <b>Plaintiff,</b>                  | ) |                                     |
|                                    | ) |                                     |
| <b>vs.</b>                         | ) | <b>CIVIL ACTION NO. 13-014-CG-M</b> |
|                                    | ) |                                     |
| <b>PUBLIX SUPER MARKETS, INC.,</b> | ) |                                     |
|                                    | ) |                                     |
| <b>Defendant.</b>                  | ) |                                     |
|                                    | ) |                                     |

**ORDER**

This action is before the court on defendant’s motion for sanctions (Doc. 25), and defendant’s affidavit in support of attorneys’ fees (Doc. 30). For reasons explained below, the court finds that defendant should be awarded sanctions in the amount of \$5,348.00.

On February 10, 2014, this court granted defendant’s motion to dismiss and for sanctions (Doc. 25) and found that defendant should be awarded the reasonable expenses, including attorney's fees, caused by plaintiff’s failure to timely answer discovery and to comply with this court’s order to compel. Defendant had previously submitted an affidavit averring that defendant had incurred \$2,492.00 in fees and costs in drafting the motion to compel that was granted on October 15, 2013. (Doc. 22). No objection had been filed to that affidavit and the court found that the requested \$2,492.00 should be awarded. However, since the affidavit only included the expenses incurred in actually drafting the motion to compel, the court ordered

defendant to file an affidavit to support any additional fees and expenses claimed. On February 24, 2014, defendant provided an affidavit stating that it had incurred an additional \$2,856.00 in attorneys' fees as a result of plaintiff's delays. (Doc. 30). Thus, the total amount requested is \$5,348.00. Plaintiff was ordered to file any objection he had to the additional claimed amounts within five days of service of the affidavit. To date, no objection has been filed.

After review of the additional affidavit (Doc. 30-1) along with the previously claimed amounts (Doc. 22), the court finds that the rates and number of hours claimed are reasonable and that they result from plaintiff's failure to timely answer discovery and to comply with this court's order to compel. Accordingly, plaintiff's counsel is **ORDERED** to pay defendant **\$5,348.00** as a sanction pursuant to Rule 37 of the Federal Rules of Civil Procedure. Plaintiff's counsel is **ORDERED** to pay the above sanction directly to defendant, **Publix Super Markets, Inc.** on or before **March 31, 2014**, and should contact defense counsel regarding where and how such payment should be sent. Plaintiff's counsel is directed to file a notice with the court to confirm receipt of the payment by his client.

**DONE and ORDERED** this 10th day of March, 2014.

/s/ Callie V. S. Granade  
**UNITED STATES DISTRICT JUDGE**