

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

CURTIS PINSON and CRISTI PINSON,  
Individually and as Husband and Wife

PLAINTIFFS

v.

Case No. 2:12-CV-02160

45 DEVELOPMENT, LLC; CITI TRENDS, INC.;  
CITI TRENDS, INC. d/b/a CITITRENDS; and  
BRANDRITE SIGN COMPANY, INC.

DEFENDANTS

**ORDER**

Currently before the Court is Defendant Brandrite Sign Company, Inc.'s ("Brandrite") Motion to Compel (Doc. 101) and brief in support (Doc. 102).

Brandrite has filed a cross-claim (Doc. 88) against separate defendant Citi Trends, Inc. ("Citi Trends"). Brandrite served a set of interrogatories and requests for production of documents on Citi Trends on January 31, 2013.<sup>1</sup> Despite a good-faith effort to obtain responses without the necessity of Court action, to date, Citi Trends has not responded to Brandrite's discovery requests.

Pursuant to Federal Rules of Civil Procedure 33(b)(2) and 34(b)(2)(A), Citi Trends had 30 days to respond to Brandrite's discovery requests. Using the rules for computing time set forth by Federal Rule of Civil Procedure 6, Citi Trends' responses were therefore due on March 5, 2013, allowing an extra three days since Citi Trends counsel was served with the requests via mail (Doc. 102-1, p. 5). Brandrite's counsel sent Citi Trends' counsel letter April 30, 2013 seeking responses

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<sup>1</sup> At the time the discovery requests were served, Citi Trends was also a 3rd-party plaintiff, bringing claims against Brandrite as a 3rd-party defendant. Brandrite was subsequently added as separate defendant, and Citi Trends, apart from generally re-alleging its previous pleadings, does not appear to bring any separate claims against Brandrite in response to Plaintiff's Fourth Amended Complaint (Doc. 82). (Doc. 93).

by May 15, 2013. (Doc. 102-2, p. 1). Another letter was sent on June 6, 2013, seeking responses by June 12, 2013. *Id.* at p. 2. Both letters stated that if responses were not timely received, a motion to compel would be filed.

Citi Trends has not responded to Brandrite's discovery requests to this date. Furthermore, Citi Trends has not responded to Brandrite's motion to compel.

Accordingly, IT IS ORDERED that Brandrite's motion to compel (Doc. 101) is GRANTED. Citi Trends is ordered to appropriately respond to Brandrite's discovery requests **by 5:00 p.m. on July 22, 2013.**

Subject to certain exceptions, if a motion to compel is granted, "the court must, after giving an opportunity to be heard, require the party . . . whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A). Brandrite is directed to file an affidavit documenting its fees and expenses incurred in bring the instant motion by July 15, 2013. Citi Trends will be given 7 days to file any objections.

IT IS SO ORDERED this 8th day of July, 2013.

*P. K. Holmes, III*

P.K. HOLMES, III  
CHIEF U.S. DISTRICT JUDGE