

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DESSIE R. NELSON,  
  
Plaintiff(s),  
  
v.  
  
HARTFORD LIFE INSURANCE CO.,  
  
Defendant(s).

No. C-13-04196 CRB (DMR)

**ORDER GRANTING IN PART THIRD  
PARTY PLAINTIFF’S MOTION TO  
DEEM OBJECTIONS WAIVED AND  
REQUESTING SANCTIONS [DOCKET  
NO. 57]**

Before the court is Third Party Plaintiff Hartford Life Insurance Co.’s (“Hartford”) motion to deem Third Party Defendant Juliana James’s objections to Hartford’s interrogatories waived. [Docket No. 57.] The court held a hearing on the matter on September 25, 2014. For the following reasons, the court grants Hartford’s motion to deem the objections waived and denies the request for sanctions.

**I. Discussion**

Hartford served its first set of interrogatories on James on April 1, 2014. Accordingly, her responses and/or objections were due on May 5, 2014. (Hazlehurst Decl., Aug. 13, 2014, ¶ 2 Ex. A.) On May 9, 2014, after the responses were due, James’s counsel requested an extension to June 1, 2014 to serve responses. Harford’s counsel agreed to the extension, which the parties confirmed by email. (Hazlehurst Decl. ¶ 3 Ex. B.) James did not serve her interrogatory responses by June 1, 2014, nor did her counsel request an additional extension of time. On June 5, 2014, in response to

1 Hartford’s inquiries, James’s counsel stated that Hartford would receive the responses by June 9 or  
2 10, 2014. Hartford’s counsel responded that all objections to the interrogatories had been waived due  
3 to the failure to serve timely responses. (Hazlehurst Decl. ¶ 4 Ex. C.)

4 James finally served her interrogatory responses on Hartford on June 10, 2014. The  
5 responses included objections to seven of the fifteen interrogatories even though the responses were  
6 late. (Hazlehurst Decl. Ex. D (Interrogatory Responses).) Hartford subsequently asked James to  
7 withdraw her objections on the grounds that they had been waived by James’s late responses. James  
8 refused. (Hazlehurst Decl. ¶¶ 6, 7.)

9 On August 13, 2014, Hartford filed the present motion to deem James’s objections to its first  
10 set of interrogatories waived and requested sanctions. James’s opposition to the motion was due on  
11 August 27, 2014 (*see* Docket No. 62), but she did not file anything by that date. On September 15,  
12 2014, the court received a letter from James’s counsel, stating that Hartford’s motion should be  
13 denied because James’s objections “were and are inconsequential” and asserting that each  
14 interrogatory was completely and fully answered. [Docket No. 67.]

15 Federal Rule of Civil Procedure 33 provides that a party must serve responses and any  
16 objections to interrogatories within 30 days after being served with the discovery. Fed. R. Civ. P.  
17 33(b)(2). Failure to timely respond to discovery requests generally constitutes a waiver of any  
18 objections thereto. *See* Fed. R. Civ. P. 33(b)(4) (“[a]ny ground [for objecting to an interrogatory]  
19 not stated in a timely objection is waived unless the court, for good cause, excuses the failure.”);  
20 *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (“failure to object to discovery  
21 requests within the time required constitutes a waiver of any objection.”). Pursuant to Rule 37, a  
22 party may move for an order compelling responses to discovery. Fed. R. Civ. P. 37(a)(3)(B). For  
23 purposes of this rule, “an evasive or incomplete disclosure, answer, or response must be treated as a  
24 failure to disclose, answer, or respond.” Fed. R. Civ. P. 37(a)(4). If the court grants the motion, it  
25 shall require the party whose conduct necessitated the motion to pay the moving party’s reasonable  
26 expenses incurred in making the motion, including attorneys’ fees, unless the failure to respond was  
27 substantially justified. Fed. R. Civ. P. 37(a)(5)(A).

28

1 Here, it is undisputed that James served her responses to interrogatories on June 10, 2014,  
2 nine days after they were due pursuant to the parties' agreement. Further, James has not shown  
3 good cause for her failure to timely serve responses. Accordingly, all objections to the  
4 interrogatories are waived, as James's counsel conceded at the hearing. *See* Fed. R. Civ. P. 33(b)(4)  
5 (“[a]ny ground not stated in a timely objection is waived unless the court, for good cause, excuses  
6 the failure”).

7 As to the completeness of the responses, James's counsel represented at the hearing that  
8 despite her objections, James's responses to the interrogatories were complete and included all  
9 responsive information known to James as of the date of the responses; in other words, the  
10 substantive responses to the interrogatories would be the same in the absence of any objections.  
11 Hartford's counsel conceded that he believed the responses were complete, notwithstanding the  
12 asserted objections. Accordingly, as the responses were complete as of the date they were served,  
13 the court concludes that James's responses were not “evasive or incomplete” pursuant to Rule  
14 37(a)(4), and the sanctions provision of Rule 37(a)(5)(A) does not apply. Therefore, Hartford's  
15 request for sanctions is denied. At the hearing, Hartford asked the court to impose sanctions  
16 pursuant to its inherent authority, but as Hartford only sought Rule 37 sanctions in its motion, the  
17 court declines to consider this request. However, the court expresses concern regarding both the  
18 conduct which necessitated this motion, which could have been avoided had counsel agreed to  
19 withdraw the untimely objections upon Hartford's request, as well as the fact that James's response  
20 to the motion was itself untimely. By no later than October 9, 2014, James shall serve supplemental  
21 responses to Hartford's first set of interrogatories that do not include any objections and that reflect  
22 any new, responsive information learned through discovery. Going forward, upon learning new  
23 information in the course of discovery that is responsive to the interrogatories, James shall  
24 supplement her responses within two weeks of learning such information, in compliance with her  
25 obligations under Rule 26. *See* Fed. R. Civ. P. 26(e) (“party who has . . . responded to an  
26 interrogatory . . . must supplement or correct its disclosure or response . . . in a timely manner if the  
27 party learns that in some material respect the disclosure or response is incomplete or incorrect”).

28 **II. Conclusion**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

For the foregoing reasons, Hartford’s motion to deem James’s objections to its first set of interrogatories waived is granted. Hartford’s request for sanctions is denied.

IT IS SO ORDERED.

Dated: September 29, 2014

