

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00175-ZLW-MEH

DAVIS AUDIO VISUAL, LLC,

Plaintiff,

v.

RICHARD GREER,

Defendant.

ORDER

Michael E. Hegarty, United States Magistrate Judge.

Pending before the Court is Mr. Greer's Motion to Serve Responses to Requests for Production of Documents Out of Time [filed May 6, 2009; docket 34]. Rule 34(b)(2)(A) governs the time to respond to requests for production, and states "[t]he party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court." Defendant requests, in essence, ten business hours in extension to submit his responses to Plaintiff's Requests for Production. Plaintiff opposes this relief based on its assertion that Defendant fails to establish good cause. However, in light of the candidness of Defendant's request, the interests of justice in fully adjudicating objections pursuant to privilege,¹ the lack of any reasonable prejudice to Plaintiff due to a ten-hour delay, and

¹Notably, this jurisdiction has recognized authority that "a waiver of the attorney-client privilege should not be imposed based merely upon a party's failure to assert the objection within the time provided by the federal rules." *Pham v. Hartford Fire Ins. Co.*, 193 F.R.D. 659, 662 (D. Colo. 2000) (citing *e.g.*, *First Savings Bank v. First Bank Sys., Inc.*, 902 F. Supp. 1356, 1361-65 (D. Kan. 1995); *Jayne H. Lee, Inc. v. Flagstaff Indus. Corp.*, 173 F.R.D. 651, 657 n.16 (D. Md. 1997).

the Court's discretion pursuant to Rule 34(b)(2)(A), the Court **GRANTS** Defendant's Motion and deems Defendant's responses to Plaintiff's requests for production timely.

Dated at Denver, Colorado, this 14th day of May, 2009.

BY THE COURT:

s/ Michael E. Hegarty
Michael E. Hegarty
United States Magistrate Judge