

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 11-cv-03156-CMA-BNB

PAUL FANN, and
LENORE FANN,

Plaintiffs,

v.

THE HARTFORD UNDERWRITERS INSURANCE COMPANY,

Defendant.

ORDER

This matter arises on **Defendant's Motion to Compel [etc.]** [Doc. # 21, filed 5/21/2012] (the "Motion to Compel"). I held a hearing on the Motion to Compel this morning and made rulings on the record, which are incorporated here.

The plaintiffs waited until after the Motion to Compel was filed to provide their discovery responses, and waited until the morning of the hearing on the Motion to Compel to provide copies of documents relied on pursuant to Rule 33(d), Fed. R. Civ. P. This failure to make discovery in a timely manner and without the intervention of the court, despite the defendant's good faith efforts to avoid court action, is not substantially justified, nor have the plaintiffs articulated grounds which make the award of attorneys fees to the defendant unjust.

IT IS ORDERED:

- (1) The Motion to Compel [Doc. # 21] is GRANTED;
- (2) All objections to the discovery are waived;
- (3) The plaintiff shall provide full and complete discovery responses in a manner that

complies with the formalities of the Federal Rules of Civil Procedure and produce all responsive documents and all documents relied on pursuant to Rule 33(d) on or before July 9, 2012; and

(4) The defendant is awarded its reasonable expenses incurred in making the Motion to Compel, including attorney's fees, pursuant to Rule 37(a)(5). To effectuate this award, the defendant shall submit its fee application to the plaintiffs on or before July 9, 2012. If the parties cannot agree on the amount of the award, the defendant shall file its fee application on July 16, 2012, and the plaintiffs shall reply on or before July 23, 2012. The award is made jointly and severally against the plaintiffs and their counsel.

Dated June 28, 2012.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge