

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

Civil Action No. 12-cv-02367-LTB-BNB

DOUG HITCHENS, and  
SHERYL HITCHENS,

Plaintiffs,

v.

THOMPSON NATIONAL PROPERTIES, LLC,

Defendant.

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**ORDER**

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This matter arises on **Plaintiffs' Motion to Compel Discovery Responses In Aid of Enforcement of Judgment** [Doc. # 52, filed 11/5/2014] (the "Motion to Compel"), which is GRANTED.

Final judgment was entered in favor of the plaintiffs and against the defendant in the amount of \$146,542.11. Final Judgment [Doc. # 51]. Subsequently, on September 3, 2014, the plaintiffs served written discovery on the defendant, to which the defendant did not respond. Motion to Compel [Doc. # 52] at p. 2. The plaintiffs moved to compel answers to the discovery, including an award of their "reasonable and necessary attorneys' fees and costs associated with making this motion." *Id.* at p. 4. The defendant did not respond to the Motion to Compel.

Rule 69(a)(2), Fed. R. Civ. P., provides that a judgment creditor "may obtain discovery from any person--including the judgement debtor--as provided in these rules. . . ." Pursuant to Fed. R. Civ. P. 33(b), the judgment debtor was required to respond within 30 days after service of the interrogatories. Here, the defendant never responded. Rule 37(a)(3)(B)(iii), Fed. R. Civ.

P., allows a party to file a motion to compel discovery where an opposing party fails to answer interrogatories, and Rule 37(d)(1)(A)(ii) provides that sanctions may be awarded. Available sanctions include the award of reasonable expenses, including attorney's fees. Fed. R. Civ. P. 37(d)(3).

I find that the defendant failed to answer interrogatories properly served on it which are relevant to the issues pending before the court; the failure to answer was not substantially justified; and an award to the plaintiffs of their reasonable expenses, including attorney's fees, would not be unjust.

**IT IS ORDERED:**

(1) The defendant shall answer Plaintiffs' Post Judgment Interrogatories on or before December 31, 2014; and

(2) The plaintiffs are awarded their reasonable expenses, including attorney's fees, caused by the defendant's failure to answer the discovery. The plaintiffs shall submit their fee application, conforming to the requirements of D.C.COLO.LCivR54.3, on or before December 31, 2014.

Dated December 10, 2014.

**BY THE COURT:**

s/ Boyd N. Boland  
United States Magistrate Judge