

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

WHITNEY INFORMATION NETWORK, INC., a
Colorado corporation,

Plaintiff,

-vs-

Case No. 2:04-cv-47-FtM-34SPC

XCENTRIC VENTURES, LLC., an Arizona limited
liability company; BADBUSINESSBUREAU.ORG,
an Arizona limited liability company and ED
MAGEDSON, an individual,

Defendants.

ORDER

_____ This matter comes before the Court on the Plaintiff Whitney Information Network, Inc.'s Amended Motion to Compel Responsive Documents to the First Request for Production (Doc. #114) filed on June 15, 2007. The Federal Rules state that, "[t]he party upon whom the request [for production] is served shall serve a written response within 30 days after the service of the request." Fed. R. Civ. P. 34(b). If the serving party does not receive a response to their request for production, the serving party may request an order compelling disclosure. Fed. R. Civ. P. 37(a). Whether or not to grant the order to compel is at the discretion of the trial court. Commercial Union Insurance Co. v. Westrope, 730 F.2d 729, 731 (11th Cir. 1984).

On March 30, 2007, the Plaintiff served its first set of interrogatories on the Defendant. According to the Plaintiff, the Defendant either objected to the production or stated the requested documents would be produced at the law offices of Jaburg & Wilk for the Plaintiff's review. The Plaintiff claims the answers were non-responsive to the requested production.

In its Motion, the Plaintiff states the Defendant filed responses as either objections or stated the production could be viewed at the Defense Counsel's law offices. However, the Plaintiff did not include the individual production requests, responses, and argument as to why the Motion to Compel should be granted. Under the Local Rules,

[a] motion to compel discovery pursuant to Rule 36 or Rule 37, Fed. R. Civ. P., shall include quotation in full of each interrogatory, question on deposition, request for production to which the motion is addressed; each of which shall be followed immediately by quotation in full of the objection and grounds therefor as stated by the opposing party; or the answer or response which is asserted to be insufficient, immediately followed by a statement of the reason the motion should be granted.

M.D. Fla. Local Rule 3.04(a). The Plaintiff's failure to comply with the Local Rules is fatal to its request and the Motion is due to be denied.

Accordingly, it is now

ORDERED:

The Plaintiff Whitney Information Network, Inc.'s Amended Motion to Compel Responsive Documents to the First Request for Production (Doc. #114) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida, this 3rd day of July, 2007.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record