

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FIRST MUTUAL GROUP, LP,

Plaintiff,

v.

Case No: 2:14-cv-621-FtM-29CM

ANDREW M. CARTER,

Defendant.

ORDER

Before the Court is the Motion of Defendant Andrew M. Carter to Compel Discovery; Rule 37(a)(2)(B) Certification and for Attorney's Fees and Costs (Doc. 17), filed on September 2, 2015. Plaintiff has not filed a response in opposition, and the time has expired for Plaintiff to do so. Failure to file a response creates a presumption that the motion is unopposed. *Great American Assur. Co. v. Sanchuk, LLC*, 2012 WL 195526 *3 (M.D. Fla. 2012) (citation omitted). The motion is now ripe for review.

Defendant served Plaintiff with a request for production of documents on or about May 20, 2015. Doc. 17 at 2. Plaintiff's response was due on June 19, 2015. *Id.* To date, Plaintiff has not responded to Defendant's request for production. *Id.* Because Plaintiff has failed to respond to the discovery or assert any objections thereto, any such objections are waived. *Limu Co., LLC v. Burling*, 2013 WL 1482760 *1 (M.D. Fla. 2013). Moreover, Plaintiff failed to provide any opposition to the present motion. Accordingly, the Court will grant Defendant's motion. Plaintiff

shall have up to and including **October 20, 2015** to respond to Defendant's First Request for Production. Plaintiff is advised that failure to comply with this Order could result in sanctions.

Defendant also seeks attorney fees and costs associated with bringing this motion. When a party makes a claim for fees, it is the party's burden to establish entitlement and document the appropriate hours and hourly rate. *Am. Civil Liberties Union of Georgia v. Barnes*, 168 F.3d 423, 427 (11th Cir. 1999) (citing *Norman v. Housing Auth. of Montgomery*, 836 F.2d 1292, 1303 (11th Cir. 1988)). Here, Defendant has provided no documentation as to the amount of time expended preparing the present motion or the hourly rate. Accordingly, Defendant's request for attorney's fees is denied without prejudice.

ACCORDINGLY, it is hereby

ORDERED:

1. The Motion of Defendant Andrew M. Carter to Compel Discovery; Rule 37(a)(2)(B) Certification and for Attorney's Fees and Costs (Doc. 17) is **GRANTED in part and DENIED in part**.

2. Defendant's Motion to Compel is **GRANTED**. Plaintiff shall have up to and including **October 20, 2015** to respond to Defendant's First Request for Production.

3. Defendant's request for attorney's fees is **DENIED without prejudice**.

DONE and **ORDERED** in Fort Myers, Florida on this 6th day of October, 2015.



CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record