

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

ASHLEIGH DAVIS,

Plaintiff,

v.

Case No: 5:12-cv-609-Oc-10PRL

**CITY OF LEESBURG, GARY S.
BORDERS, CHRISTOPHER ALANIZ,
KENNETH LANE, NICK ROMANELLI,
RYAN ABSTON, MICHAEL
GODIGKEIT, J. G. SOMMERSDORF,
THOMAS BROWN, SHAWN LUKENS
and RICHARD SYLVESTER**

Defendants.

ORDER


On March 4, 2014, the Court denied as moot Plaintiff's Renewed Motion to Compel Discovery from Defendant Gary S. Borders. (Doc. 75). However, because Defendant Borders provided the requested discovery after Plaintiff filed the Renewed Motion to Compel, the Court found that an award of attorney's fees was mandated under Rule 37(a)(5)(A) unless one of the exceptions in Rule 37(a)(5)(A)(i)-(iii) applied. Although it did not appear that any of the exceptions applied, the Court afforded Defendant Borders an opportunity to be heard on the matter before the Court issued a ruling.

Based on the representations made in Defendant Borders' Motion for Reconsideration of the Court's Order (Doc. 77), Amended Rule 3.01(g) certification (Doc. 78), and response and Objection to Plaintiff's Affidavit for Attorney's Fees (Doc. 86), the Court finds that an award of fees is not warranted based on the parties ongoing discussions regarding the discovery and

agreements to modify the subject discovery requests to address some of Defendant Borders' objections only days before the Renewed Motion to Compel was filed. Under these circumstances, the Court finds that an award of fees would be unjust. Accordingly, Plaintiff's request for attorney's fees in its Renewed Motion to Compel Discovery (Doc. 47) is **DENIED**.

Defendant, Gary S. Borders' Motion for Reconsideration of the Court's Order (Doc. 77) is **DENIED** as **moot**. As discussed above, the Court deferred ruling on the request for fees to afford Defendant Borders an opportunity to address entitlement; thus, the Motion for Reconsideration was filed unnecessarily.

DONE and **ORDERED** in Ocala, Florida on April 7, 2014.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties