

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

**THEODORE STONER and
PLAYCYCLE, LLC,**

Plaintiffs,

v.

Case No: 6:16-cv-552-Orl-40KRS

DRINK BLOCKS, LLC and TOM WEISS,

Defendants.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

MOTION: PLAINTIFFS' MOTION TO COMPEL ANSWERS TO INTERROGATORIES AND RESPONSE TO REQUEST FOR PRODUCTION (Doc. No. 46)

FILED: December 28, 2016

THEREON it is ORDERED that the motion is GRANTED.

In this motion, Plaintiff PlayCycle, LLC ("PlayCycle") states that it served interrogatories on Defendant Drink Blocks, LLC ("Drink Blocks") on August 1, 2016, and that as of the writing of the motion to compel Drink Blocks had not responded to the interrogatories. Plaintiffs PlayCycle and Theodore Stoner also state that they served requests for production of documents on Drink Blocks on August 1, 2016, and that as of the writing of the motion to compel Drink Blocks had not responded to those requests.

As of the writing of this Order, Drink Blocks has not responded to the motion to compel and the time for filing a response has expired. Accordingly, it is **ORDERED** that the motion to compel is **GRANTED** as unopposed. It is further **ORDERED** that Drink Blocks shall serve sworn answers to PlayCycle's interrogatories and produce all documents in its possession, custody or control responsive to Plaintiffs' requests for production of documents on or before February 6, 2017. All objections to these discovery requests have been waived by failing to assert them in timely served responses to the discovery requests.

Plaintiffs also seek an award of the reasonable expenses, including attorneys' fees, they incurred in filing the motion. Doc. No. 46, at 9. Federal Rule of Civil Procedure 37(a)(5)(A) provides that when, as here, a motion to compel is granted, the Court shall require the party whose conduct necessitated the motion to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees, unless the motion was filed before attempting in good faith to resolve the issue, the failure to respond to discovery requests was substantially justified, or other circumstances make an award of expenses unjust. Plaintiffs' counsel certified that a good faith conference was conducted. Drink Blocks has not presented any information to establish that its failure to respond to the discovery requests was substantially justified or that other circumstances make an award of expenses unjust. Accordingly, it is further **ORDERED** that, on or before February 10, 2017, Drink Blocks shall tender to counsel for Plaintiffs the sum of \$500.00 to compensate Plaintiffs, in part, for the reasonable expenses incurred in filing the motion.

DONE and ORDERED in Orlando, Florida on January 25, 2017.

Karla R. Spaulding
KARLA R. SPAULDING
UNITED STATES MAGISTRATE JUDGE