

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No: 8:16-cv-2553-T-30JSS

ANTONIO RAYMOND ARNAO,

Defendant.

ORDER ON PLAINTIFF'S AMENDED MOTION TO COMPEL

THIS MATTER comes before the Court on Plaintiff's Amended Motion to Compel ("Motion"). (Dkt. 17.) Plaintiff seeks an Order directing Defendant to respond to its Interrogatories and Production Aid of Execution. (Dkt. 17.) Plaintiff also moves this Court to impose sanctions against Defendant for failing to respond to Plaintiff's post-judgment discovery. (Dkt. 17.) Defendant has not responded to the Motion. Upon consideration, the Motion is granted in part and denied in part.

BACKGROUND

Plaintiff, the United States, filed a Complaint against Defendant on September 1, 2016, to collect unpaid student loan debts guaranteed by the Department of Education. (Dkt. 1.) Defendant, appearing pro se, requested an extension of time to respond to the Complaint through October 20, 2016. (Dkt. 6.) The Court granted the extension. (Dkt. 8.) On November 7, 2016, after Defendant failed to respond to the Complaint and the Clerk of Court entered a default, Plaintiff moved for entry of a default final judgment. (Dkt. 11.) On November 17, 2016, the Court granted Plaintiff's motion and entered a default final judgment against Defendant. (Dkt. 12.) On January 18, 2017, Plaintiff served Interrogatories and Production Aid of Execution on Defendant. (Dkt. 17 ¶ 1.) As

of February 28, 2017, Plaintiff had not received an answer or response to the post-judgment discovery requests. (Dkt. 17 ¶ 2.) In accordance with Local Rule 3.01(g), Plaintiff conferred with Defendant. However, an agreement could not be reached, and Plaintiff filed the instant Motion. (Dkt. 17 at 2.) To date, Defendant has failed to respond to the Motion.

APPLICABLE STANDARDS

Federal Rule of Civil Procedure 69(a)(2) governs the discovery a judgment creditor may obtain in aid of the judgment's execution. Fed. R. Civ. P. 69(a)(2). Rule 69(a)(2) provides that “[i]n aid of the judgment or execution . . . the judgment creditor . . . may obtain discovery from any person—including the judgment debtor—as provided in these rules or by the procedure of the state where the court is located.” Fed. R. Civ. P. 69(a)(2).

Responses and objections to discovery requests must be made within thirty days of being served. Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2). A party may move for an order compelling disclosure or discovery. Fed. R. Civ. P. 37. The court may enter an order compelling discovery when a party fails to respond or make objections to discovery requests. Fed. R. Civ. P. 37(a)(3)(B); *Lane v. Guar. Bank*, 6:13-CV-259-ORL-36, 2013 WL 4028185, at *1 (M.D. Fla. Aug. 7, 2013) (granting in part a defendant's motion to compel discovery when a plaintiff failed to timely respond). The court has broad discretion in deciding to compel or deny discovery. *Josendis v. Wall to Wall Residence Repairs, Inc.*, 662 F.3d 1292, 1306 (11th Cir. 2011).

ANALYSIS

Upon review of the record, the Court finds that Defendant failed to respond to Plaintiff's post-judgment discovery requests in a timely manner. Pursuant to Federal Rule of Civil Procedure 69(a)(2), Plaintiff served Defendant with discovery requests in aid of execution on January 18, 2017, and, to date, Defendant has not responded. (Dkt. 17.) Therefore, the Court has discretion to

enter an Order compelling Defendant to respond. Fed. R. Civ. P. 37(a)(3)(B); *Am. Home Assur. Co. v. Weaver Aggregate Transp., Inc.*, 298 F.R.D. 692, 693 (M.D. Fla. 2014) (granting judgment creditor's motion to require judgment debtors to complete and serve post-judgment discovery). Further, Plaintiff has failed to file a response to the Motion, and, consequently, the Court presumes Plaintiff has no objection to Defendant's Motion. See M.D. Fla. Local R. 3.01(b). Accordingly, it is

ORDERED:

1. Plaintiff's Amended Motion to Compel (Dkt. 17.) is **GRANTED** in part. Defendant shall serve his discovery responses and produce all documents responsive to Plaintiff's discovery requests within twenty (20) days of this Order.
2. Plaintiff's Motion is **DENIED** with respect to the request for sanctions against Defendant for refusing to respond to the discovery requests.

DONE and **ORDERED** in Tampa, Florida, on April 5, 2017.



JULIE S. SNEED
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Counsel of Record
Unrepresented Parties