

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

HOME DESIGN SERVICES, INC.,
Plaintiff,

v.

Case No. 3:08cv244/MCR/EMT

W. GARGAS CONSTRUCTION, INC., and
WAGIH GARGAS,
Defendants.

ORDER

This cause is before the court upon Defendant W. Gargas Construction, Inc.'s (hereafter Defendant) Motion to Compel and for Sanctions (Doc. 41) and Plaintiff's response thereto (Docs. 46, 47). Also before the court is Defendant's Notice of Resolution of Motion to Compel (Doc. 48).

In the motion to compel, Defendant seeks entry of an order compelling Plaintiff to fully and completely respond to its first set of interrogatories and for an award of reasonable attorneys' fees incurred by Defendant in filing the motion to compel (Doc. 41 at 6). In response, Plaintiff states that Defendant failed to confer with Plaintiff regarding discovery issues prior to filing the motion to compel (Doc. 46 at 1). Moreover, Plaintiff claims that Defendant failed to meet and confer after this court issued its order concerning discovery disputes on December 10, 2008 (*see* Doc. 43). Plaintiff additionally states that it provided amended responses to Defendant's interrogatories on December 17, 2008, at 1:00 p.m. CST, which Plaintiff believes addresses Defendant's discovery concerns (*id.*). Thus, Plaintiff requests that this court deny Defendant's motions to compel and for sanctions (*id.* at 4).

On December 17, 2008, at 2:57 p.m. CST, Defendant filed its Notice of Resolution of Motion to Compel (Doc. 48). In the notice, Defendant states that Plaintiff's amended responses "appear to

fulfill [Plaintiff's] obligations under the Federal Rules of Civil Procedure" (*id.* at 2). Because Plaintiff and Defendant agree that the issues raised by Defendant in its motion to compel are resolved, the court shall deny Defendant's motion as moot.

Accordingly, it is **ORDERED**:

Defendant W. Gargas Construction, Inc.'s Motion to Compel and for Sanctions (Doc. 41) is **DENIED as moot**.

DONE AND ORDERED this 23rd day of December 2008.

/s/ Elizabeth M. Timothy

ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE