

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 07-21221-CIV-ALTONAGA/BROWN

RENEE BLASZKOWSKI, *et al.*,
individually and on behalf of
others similarly situated,

Plaintiffs,

vs.

MARS, INCORPORATED, *et al.*,

Defendants.

**NOTICE OF PLAINTIFFS' FAILURE TO RESPOND AND REQUEST TO GRANT
DEFENDANTS' MOTION TO COMPEL [D.E. 429]**

Defendants¹ hereby notify the Court that Plaintiffs have failed to file a response in opposition to Defendants' Motion to Compel Production of Documents and Answers to Interrogatories Regarding Pet Food Communications. [D.E. 429.] Defendants thus respectfully notify the Court that the motion is ripe for decision and request that the Court grant Defendants' motion.

On July 21, 2008, Defendants filed a Motion to Compel Production of Documents and Answers to Interrogatories Regarding Pet Food Communications, accompanied by a memorandum of law in support of the motion. [D.E. 429, 430.] Pursuant to the Court's April 25, 2008 Amended Scheduling Order, which directs that "[d]iscovery motions . . . shall be handled on an expedited briefing schedule to prevent delay to the pre-trial schedule," parties must respond to "motions to compel . . . no later than the fifth business day after a motion is

¹ Consistent with the underlying motion to compel at issue [D.E. 429], "Defendants" refers to all Defendants, with the exception of Defendant Kroger Co. of Ohio.

filed.” [D.E. 355.] Plaintiffs’ response to Defendants’ motion was therefore due no later than Monday, July 28, 2008.

As of Wednesday, July 30, 2008, Plaintiffs have failed to file any response to Defendants’ motion, and the time to do so has expired. Accordingly, the motion is now fully briefed and ripe for the Court’s consideration. Further, under the local rules, Plaintiffs’ failure to submit a timely response may, standing alone, “be deemed sufficient cause for granting the motion by default.” S.D. Fla. L.R. 7.1.C. *See, e.g., Williams v. R.W. Cannon, Inc.*, No. 08-60168-CIV, 2008 WL 2053492, at *2 (S.D. Fla. May 13, 2008) (“Clearly, Defendant's failure to timely respond to Plaintiff's motion to compel provides good cause for granting the motion for default.”); *Harvey v. West Acquisitions & Inv. Group, Inc.*, No. 07-61265-CIV, 2008 WL 268602 (S.D. Fla. Jan. 29, 2008) (same).

CONCLUSION

For the foregoing reasons, Defendants respectfully request that their Motion to Compel Production of Documents and Answers to Interrogatories Regarding Pet Food Communications be granted.

Respectfully submitted,

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Dated: July 30, 2008

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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