

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED
JUL 11 2000
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIDDLEBROOKS

CASE NO.: 99-14313-CIV-MIDDLEBROOKS
CHARLENE H. SORRENTINO - MAGISTRATE

ALLAN L. HALL,

Plaintiff,

v.

FLORIDA DEPARTMENT OF INSURANCE;
EMSA LIMITED PARTNERSHIP, INC.;
MICHAEL W. MOORE; ANGEL DIAZ, M.D.;
DOUG CRAVEN; ORLESTER DICKENS;
LONI BOWDER; MARY MCLENDON;
JOEL ANDERSON; DENISE WHITE; and
JESSE JENKINS,

Defendants.

GAY, RAMSEY & WARREN, F.A., WEST PALM BEACH, FLORIDA

**RESPONSE TO PLAINTIFF'S MOTION TO COMPEL DISCOVERY AND
MOTION TO STRIKE SHAM PLEADING**

NOW COMES Defendants, ANGEL DIAZ, M.D. and MARY MCLENDON, R.N.,
and in response to Plaintiff's Motion to Compel Discovery states as follows:

1. Plaintiff has filed a Motion to Compel Discovery from Defendants, ANGEL DIAZ, M.D. and MARY MCLENDON, R.N.
2. In support thereof, Plaintiff has filed an unverified Affidavit.
3. On July 31, 2000, Defense counsel corresponded with the Pro-Se Plaintiff. A copy of the letter is attached to the Plaintiff's Motion to Compel Discovery as Exhibit "D". In said letter, defense counsel indicated to the Plaintiff that the discovery requested was never received by the undersigned's office.
4. Pro-Se Plaintiff failed to respond in any manner to the July 31, 2000

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w/c

GAY, RAMSEY & WARREN, P.A., WEST PALM BEACH, FLORIDA

correspondence. Instead of providing defense counsel with the discovery items, Plaintiff filed a Motion to Compel Discovery.

5. Defendants request that Plaintiff's Motion to Compel Discovery be denied in that Plaintiff has failed to provide the Defendant with the discovery which Plaintiff seeks to compel responses.
6. Defendant, ANGEL DIAZ, M.D. and MARY MCLENDON, R.N., would have been responsive to Plaintiff's discovery requests if they had only received them. Pursuant to this Court's Scheduling Order, all discovery was to have been completed by August 11, 2000. The Scheduling Order was entered on June 11, 2000. Likewise, all motions related to discovery were to have been filed by August 11, 2000.
7. As these Defendants have never been served with any Interrogatories or Request for Production from the Plaintiff within the prescribed time period as provided by the Court's Scheduling Order of June 11, 2000, Defendants request that the Court enter an Order Denying Plaintiff's Motion to Compel Discovery and strike the sham pleading. Alternatively, as the discovery was never received by these Defendants, ANGEL DIAZ, M.D. and MARY MCLENDON, R.N., request that this Court enter an Order Denying the Plaintiff's Motion to Compel Discovery and require the Plaintiff to submit the discovery henceforth, and allow these Defendants thirty (30) days in which to respond to the discovery.

WHEREFORE, Defendants, ANGEL DIAZ, M.D. and MARY MCLENDON, R.N.

respectfully request that this Honorable Court enter an Order Denying the Plaintiff's Motion to Compel Discovery for the reasons enumerated herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to all counsel on the attached list this 18th day of August, 2000.

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