

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-80967-CIV-ZLOCH

TIMOTHY WILLIAMS,

Plaintiff,

vs.

O R D E RBRIDGESTONE/FIRESTONE, INC.,  
et al.,Defendants.  

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THIS MATTER is before the Court upon Defendant' Motion For Dismissal Without Prejudice As A Sanction For Plaintiff's Failure To Comply With The Court's Prior Order (DE 42). The Court has carefully reviewed said Motion and the entire court file and is otherwise fully advised in the premises.

By prior Order (DE 41), the Court denied Plaintiff's Motion For Fifteen Day Extension Of Time To Respond To Defendant's Request For Production And Answers To Interrogatories And File Objections (DE 39). Plaintiff's Motion was filed over sixty (60) days after Defendants propounded the discovery requests on Plaintiff. Therefore, the Court determined that an extension of time was inappropriate and Plaintiff's objections had been waived pursuant to Federal Rules of Civil Procedure 33(b)(2) and 34(b)(2)(A). Further, the Court ordered Plaintiff to fully comply with Defendants' discovery requests by noon on Wednesday, August 27, 2008. Two weeks after the court-imposed deadline, Plaintiff has still failed to comply with Defendants'

discovery requests. Therefore, the Court will fashion a remedy appropriate for Plaintiff's conduct.

At this point in the litigation, the Court is not inclined to dismiss the case "without prejudice," knowing that statute of limitations on Plaintiff's claim has run and such a dismissal would in effect be with prejudice. The Court finds that a sanction of attorney's fees assessed against Plaintiff's counsel is appropriate to remedy the prejudice to Defendants, and the Court will consider a more severe sanction if Plaintiff fails to comply with this Order.

Accordingly, after due consideration, it is

**ORDERED AND ADJUDGED** that Defendant's Motion For Dismissal Without Prejudice As A Sanction For Plaintiff's Failure To Comply With The Court's Prior Order (DE 42) be and the same is hereby **GRANTED** as follows:

1. By noon on Monday, September 29, 2008, Plaintiff shall provide Defendants with full and complete responses to Interrogatories and Requests For Production that were propounded on June 21, 2008;

2. By noon on Friday, October 3, 2008, Defendants shall file a notice with the Court indicating whether Plaintiff has complied with this Order;

3. Pursuant to Federal Rule of Civil Procedure 37, on or before noon on Monday, September 22, 2008, Defendants shall file a Memorandum with all necessary Affidavits and Exhibits as dictated by Local Rule of the Southern District of Florida 7.3.B, establishing for the Court

the attorney's fees and costs incurred in the preparation and execution of the instant Motion (DE 42); and

4. Upon failure of Plaintiff to comply with the terms and conditions of this Order, the Court will entertain the appropriate Motion For Sanctions, including, but not limited to, dismissal of this action.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 15th day of September, 2008.



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WILLIAM J. ZLOCH  
United States District Judge

Copies furnished:

All Counsel of Record