

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

UNITED STATES OF AMERICA,	*	
Plaintiff,	*	
vs.	*	CASE NO. 4:07-CV-180(CDL)
\$100,100.00 IN UNITED STATES	*	
FUNDS, <i>et al.</i> ,	*	
Defendant Property,	*	
KELLY BATTLE and MARY BATTLE,	*	
Claimants.	*	
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O R D E R

Presently pending before the Court is Plaintiff's Motion to Strike Responsive Pleadings and for Final Order of Forfeiture (Doc. 42). For the following reasons, the Court denies Plaintiff's motion at this time but orders claimants to respond to discovery or face future sanctions.

DISCUSSION

On April 30, 2008, Claimants received Plaintiff's request for production of documents. Claimants have not responded to Plaintiff's discovery requests. (Pl.'s Mem. in Supp. of Pl.'s Mot. to Strike Responsive Pleadings and for Final Order of Forfeiture ¶¶ 9-10 [hereinafter Pl.'s Mem.]; see Exs. 1-2 to Pl.'s Mem.) If a party fails to respond to discovery requests, a court may impose sanctions under Federal Rule of Civil Procedure 37(d)(3), including "striking

pleadings in whole or in part[.]” Fed. R. Civ. P. 37(b)(2)(A)(iii). However, the decision to strike a claim or answer “ought to be a last resort—ordered only if noncompliance with discovery orders is due to willful or bad faith disregard for those orders.” *United States v. Certain Real Prop. Located at Route 1, Bryant, Ala.*, 126 F.3d 1314, 1317 (11th Cir. 1997) (internal quotation marks omitted) (holding that district court abused its discretion when it granted plaintiff’s motion to strike claimants’ claims because no discovery order compelling claimants to produce the requested discovery was issued by the court); *cf. Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987) (holding that district court did not abuse its discretion when it granted plaintiff’s motion to strike defendant’s answer because defendant failed multiple times to make discovery appearances and disregarded the court’s order to compel discovery).

Considering the fact that Plaintiff has not filed a motion to compel discovery in this case, the Court is reluctant to strike Claimants’ claims and answer at this time. Accordingly, Plaintiff’s Motion to Strike (Doc. 42) is denied. However, Claimants are required to respond to Plaintiff’s discovery requests within thirty days of today’s Order. Claimants are notified that if they fail to comply with the Court’s Order, their responsive pleadings will be stricken.

IT IS SO ORDERED, this 16th day of October, 2008.

S/Clay D. Land

CLAY D. LAND

UNITED STATES DISTRICT JUDGE