

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TERA M. BRUNER-McMAHON,
Administrator of the Estate of TERRY
ALBERT BRUNER, Deceased, et al.,

Plaintiffs,

v.

Case No. 10-1064-KHV-GLR

COUNTY OF SEDGWICK,
et al.,

Defendants.

MEMORANDUM AND ORDER

Defendant Stanton County Board of Commissioners (“Board”) has filed a Motion to Compel Discovery (ECF No. 196). It requests an order to compel Plaintiffs to produce documents responsive to its Third Request for Production of Documents, which seeks “[a]ny and all documents designated in plaintiffs’ 26(a) Disclosures as exhibits that have not been produced.” Defendant Board asserts that Plaintiffs’ response was insufficient as the requested documents have not been produced. It also requests its attorneys fees incurred in making the motion.

Defendant Board served Plaintiffs with its Third Request for Production of Documents on March 18, 2011. Plaintiffs served their response on April 18, 2011. It states that “[a]ll such designated documents in the possession of Plaintiffs have previously been produced. Plaintiffs will supplement this response as necessary.”

Defendant Board states in its motion and Certificate of Compliance (ECF No. 198) that its counsel discussed the response with counsel for Plaintiffs on May 3, 2011, followed by an e-mail

on May 4, 2011, listing the documents which had not been produced. As of the date the motion to compel was filed, it had not received the listed documents from Plaintiffs.

Plaintiffs have filed no response to the motion within fourteen days, as required by D. Kan. Rule 6.1(d)(1). Pursuant to D. Kan. Rule 7.4(b), “[i]f a responsive brief or memorandum is not filed within the Rule 6.1(d) time requirements, the court will consider and decide the motion as an uncontested motion. Ordinarily, the court will grant the motion without further notice.” The Court will therefore grant the motion as uncontested under D. Kan. Rule 7.4(b).

IT IS THEREFORE ORDERED THAT Defendant Board’s Motion to Compel Discovery (doc. 197) is granted. Plaintiffs shall produce all documents responsive to Defendant Board’s Third Request for Production within **fourteen (14) days** of the date of this Order.

IT IS FURTHER ORDERED THAT within twenty (20) days from the date of this order Plaintiffs shall show cause in writing, why the Court should not order payment of reasonable expenses incurred in making the motion, pursuant to Federal Rule of Civil Procedure 37(a)(5)(A). Within fourteen (14) days thereafter Defendant Board may respond thereto, and Plaintiffs may then reply within fourteen (14) days of service of the response.

Dated in Kansas City, Kansas on this 16th day of June, 2011.

S/ Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge