

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

Civil Action No. 11-334-HRW

THE OHIO CASUALTY COMPANY,

PLAINTIFF,

v.

BARBARA COX, *et al.*,

DEFENDANTS,

v.

JERRY HENRY, *et al.*,

THIRD-PARTY DEFENDANTS.

ORDER

This matter is before the Court upon Third Party's Motion for Rule 37 Sanctions [Docket No. 78] and Plaintiff's Motion for Rule 37 Sanctions [Docket No. 80]. The motions were referred to Magistrate Judge Robert E. Wier for initial consideration.

Magistrate Judge Wier filed his Report and Recommendation [Docket No. 102] wherein he recommends that the motions be granted in part. Specifically he recommended that the Court impose a preclusive sanction for Defendant/Third Party Plaintiff's discovery conduct. As Barbara Cox culpably destroyed journals of evidentiary significance in this case, the District Court should preclude all use of or reference to journals or journaling at the trial. Additionally, Magistrate Judge Wier recommended that the Court award Third Party Defendants their reasonable expenses, including attorneys' fees, associated with the motion for sanctions.

There have been objections filed to the Report and Recommendation. After carefully considering the record, the Court finds the report and recommendation well taken and shall adopt the same as and for its own opinion,

Accordingly, **IT IS HEREBY ORDERED:**

(1) the Report and Recommendation [Docket No. 102] is hereby **APPROVED** and **ADOPTED** as and for the Court's opinion; and

(2) Third Party's Motion for Rule 37 Sanctions [Docket No. 78] and Plaintiff's Motion for Rule 37 Sanctions [Docket No. 80] be **SUSTAINED** as set forth in the Report and Recommendation.

IT IS FURTHER ORDERED that the Plaintiff and Third Party Defendants file a detailed fee request and supporting affidavits on or before October 14, 2014.

This 25th day of September, 2014.



Signed By
Henry R. Wilhoit, Jr.
United States District Judge