

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

STACEY BADON

CIVIL ACTION

VERSUS

NO. 19-12317

BERRY'S RELIABLE RESOURCES, L.L.C., ET AL.

SECTION "D" (3)

ORDER

Before the Court is the Motion for Contempt [Doc. #44] filed by plaintiff Stacey Badon. Defendants have failed to file an opposition to the motion in accordance with the local rules of this Court, and the oral hearing on the motion is set on October 14, 2020 (tomorrow). On September 10, 2020, this Court granted as unopposed plaintiff's motion to compel, [Doc. #41], in which this Court ordered defendants to respond to plaintiff's discovery requests no later than ten (10) days from the date of the order. Defendants have failed to comply with the order, and plaintiff now moves for contempt.

"A party commits contempt when he violates a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court's order." *Jones v. New Orleans Reg'l Physician Hosp. Org.*, No. CV 17-8817, 2019 WL 7558109, at *1 (E.D. La. Aug. 29, 2019). "[A] party seeking a civil contempt order must establish by clear and convincing evidence that: (1) a court order was in effect, (2) the order required certain conduct by the respondent, and (3) the respondent failed to comply with the court's order." *Id.* "The contemptuous actions need not be willful so long as the contemnor actually failed to comply with the court's order." *Id.*

A court order was clearly in effect, [Doc. #41], and that order required defendants to respond to plaintiff's discovery requests. Defendants failed to comply with that order, and this Court thus finds defendants in contempt of the order of this Court. If a court finds a party in contempt, it "must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(b)(2)(C). Accordingly, this Court will award plaintiff her fees and costs incurred in the filing of this motion. This Order thus reserves plaintiff the right to file the appropriate motion with supporting documentation to recover her costs and fees incurred for this motion **no later than fourteen (14) days from the date of this Order.** Accordingly,

IT IS ORDERED that the Motion for Contempt [Doc. #44] is GRANTED AS UNOPPOSED.

IT IS FURTHER ORDERED that the oral hearing set on October 14, 2020 (today) is CANCELLED.

New Orleans, Louisiana, this 14th day of October, 2020.



DANA M. DOUGLAS
UNITED STATES MAGISTRATE JUDGE