

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

DERRICK CARTER (#337492)

VERSUS

CIVIL ACTION

CORNEL HUBERT, ET AL

NUMBER 07-614-FJP-DLD

ORDER ON MOTION FOR SANCTIONS

Before the court is the plaintiff's Motion to Sanction Defendant Counsel. Record document number 87. The motion is opposed.¹

Plaintiff sought imposition of sanctions presumably pursuant to Rule 37, Fed.R.Civ.P., for violation of the rules regarding disclosures. Specifically, the plaintiff argued that counsel for the defendants knowingly submitted a false certificate of service certifying that he sent initial disclosures to the plaintiff. Plaintiff sought monetary sanctions and an order barring the defendants from calling witnesses and introducing evidence at trial, including the initial disclosures.

Defendants opposed the motion on the grounds that counsel for the defendants was unaware that the plaintiff was not receiving any of the documents mailed to him, the plaintiff is in receipt of the initial disclosures, counsel has apologized to the plaintiff and the court, and that the plaintiff has not otherwise been harmed by the delay.

Fed.R.Civ.P. 37(c)(1) provides that when "a party fails to provide information or identify a witness as required by [Fed.R.Civ.P.] 26(a), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless."

¹ Record document number 93.

Although the delay in producing the Rule 26 documents may have resulted in a waste of judicial resources, the delay has caused no harm to the plaintiff.

Accordingly, the plaintiff's Motion to Sanction Defendant Counsel is denied.

Signed in Baton Rouge, Louisiana, on June 24, 2009.



MAGISTRATE JUDGE DOCIA L. DALBY