

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**NICHOLAS ROMERO**

**CIVIL ACTION**

**VERSUS**

**ENERGY RESOURCE TECHNOLOGY  
GOM, INC.**

**NO. 08-418-A-M2**

**RULING & ORDER**

This matter is before the Court on the Motion to Compel (R. Doc. 6) filed by defendant, Energy Resource Technology GOM, Inc. (“ERT”). Plaintiff, Nicholas Romero (“Romero”), has not filed an opposition to this motion.

**FACTS & PROCEDURAL BACKGROUND**

ERT propounded Interrogatories and Requests for Production of Documents upon Romero on July 17, 2008. Romero was served with those discovery requests on July 21, 2008. A discovery conference was held between counsel for both parties on November 18, 2008, at which time Romero’s counsel promised defense counsel that discovery responses would be provided within twenty (20) days of November 18, 2008, or on December 8, 2008. That deadline expired, and defense counsel never received any discovery responses from Romero. By email dated December 16, 2008, ERT again requested responses to its outstanding discovery requests, and when it had not received such responses by December 30, 2008, ERT filed the present motion to compel. ERT contends that the information requested in its interrogatories and requests for production is necessary for it to defend against Romero’s claims and to depose Romero and other witnesses. Through its present motion, ERT seeks an order compelling Romero to fully respond to its discovery requests and awarding ERT the expenses and attorney’s fees it incurred in bringing this

motion.

### **LAW & ANALYSIS**

Local Rule 7.5M of the Middle District of Louisiana requires that memoranda in opposition to a motion be filed within twenty (20) days after service of the motion. The rule specifically provides:

#### **LR7.5M      Response and Memorandum**

Each respondent opposing a motion shall file a response, including opposing affidavits, memorandum, and such supporting documents as are then available, within 20 days after service of the motion. Memoranda shall contain a concise statement of the reasons in opposition to the motion, and a citation of authorities upon which the respondent relies. For good cause appearing therefor, a respondent may be required to file a response and supporting documents, including memoranda, within such shorter or longer period of time as the court may order, upon written ex parte motion served on all parties.

The present motion was filed on December 30, 2008, and the Court's electronic filing system indicates that notice of the filing of such motion was sent to counsel for Romero on that same date at 1:30 p.m. CST. Thus, more than twenty (20) days have elapsed since the service of the motion, and Romero has failed to file any opposition. The motion is therefore deemed to be unopposed.

In addition to being unopposed, because Romero has failed to submit any responses or objections to ERT's discovery requests even as of this date, the Court finds that this motion has merit. Pursuant to Fed. R. Civ. P. 33 and 34, a party upon whom interrogatories and requests for production of documents have been served shall serve a copy of the answers, and objections if any, to such discovery requests within thirty (30) days after the service of the requests. Fed. R. Civ. P. 33 and 34. A shorter or longer time

may be directed by court order or agreed to in writing by the parties. *Id.*

Because Romero neither submitted written responses or objections to ERT's discovery requests within thirty (30) days after they were served nor obtained a court order or a written agreement from ERT extending the time period within which to respond beyond the December 8, 2008 deadline agreed to by the parties, ERT's motion to compel will be granted. Romero will be ordered to submit complete responses to ERT's interrogatories and requests for production within fifteen (15) days of this Order and to pay the reasonable attorney's fees and costs that ERT incurred in bringing the present motion.

Accordingly;

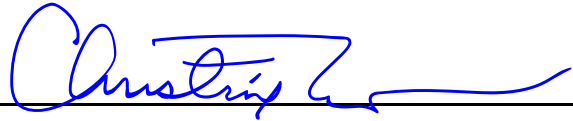
**IT IS ORDERED** that the Motion to Compel (R. Doc. 6) filed by defendant, Energy Resource Technology GOM, Inc., is hereby **GRANTED**, and plaintiff, Nicholas Romero, shall provide complete responses to ERT's Interrogatories and Requests for Production of Documents within fifteen (15) days of the date of this Order.

**IT IS FURTHER ORDERED** that ERT is entitled to an award of the attorney's fees and costs associated with the preparation and filing of this motion to compel and that, in connection with that award, the parties are to do the following:

- (1) If the parties agree to the amount of attorney's fees and costs, plaintiff shall pay that amount;
- (2) If the parties do not agree to the amount, ERT shall, within twenty (20) days of the date this Order is signed, submit to the Court a report setting forth the amount of costs and attorney's fees incurred in obtaining this Order; and

- (3) Plaintiff shall have ten (10) days after the filing of ERT's report to file an opposition.

Signed in chambers in Baton Rouge, Louisiana, January 26, 2009.



---

**MAGISTRATE JUDGE CHRISTINE NOLAND**