

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

KYRA J. ROSS

CIVIL ACTION

VERSUS

**BURGER KING, INC. STORE
#144 AND XYZ INSURANCE
COMPANY**

NO. 08-766-A-M2

RULING & ORDER

This matter is before the Court on the Motion to Compel (R. Doc. 13) filed by defendant, Burger King Corporation (“Burger King”). Plaintiff, Kyra J. Ross (“Ross”), has not filed an opposition to this motion.

FACTS & PROCEDURAL BACKGROUND

On or about February 16, 2009, Burger King propounded Supplemental Interrogatories and Requests for Production of Documents to Ross. As of June 23, 2009, Ross had not provided any responses and/or objections to such discovery requests, and Burger King therefore filed the present motion to compel. Counsel for Burger King has represented to the Court that he conferred with counsel for Ross in an effort at resolving this discovery dispute without success prior to filing 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 June 23, 2009, and the Court's electronic filing system indicates that notice of the filing of such motion was served upon Ross' counsel electronically on that same date at 1:49 p.m. CDT. More than twenty (20) days have elapsed since the service of the motion, and Ross has failed to file any opposition. The motion is therefore deemed to be unopposed.

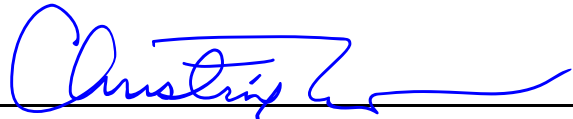
In addition to being unopposed, because Ross has failed to submit any responses or objections to Burger King's supplemental discovery requests even as of this date, the Court finds that this motion has merit. Pursuant to Fed. R. Civ. P. 33 and 34, a party upon whom interrogatories and requests for production 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 Ross neither submitted written responses or objections to Burger King's supplemental discovery requests within thirty (30) days after they were served nor obtained a court order or a written agreement from Burger King extending the time period within which to respond, Burger King's motion to compel will be granted. Ross will be ordered to submit complete responses to Burger King's supplemental interrogatories and requests for production within fifteen (15) days of this Order.

Accordingly;

IT IS ORDERED that the Motion to Compel (R. Doc. 13) filed by defendant, Burger King Corporation, is hereby **GRANTED**, and that plaintiff, Kyra J. Ross, is to provide complete responses to Burger King's Supplemental Interrogatories and Requests for Production of Documents within fifteen (15) days of the date of this Order.

Signed in chambers in Baton Rouge, Louisiana, July 22, 2009.



MAGISTRATE JUDGE CHRISTINE NOLAND