

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

FLOYD ALLEN, JR.

CIVIL ACTION

VERSUS

M/G TRANSPORT SERVICES, LLC

NO. 09-791-D-M2

RULING & ORDER

This matter is before the Court on the Motion to Compel Plaintiff, Floyd Allen, Jr., to Respond to Discovery (R. Doc. 7) filed by defendant, M/G Transport Services, LLC (“M/G Transport”). Plaintiff, Floyd Allen, Jr. (“Allen”), has not filed an opposition to this motion.

FACTS & PROCEDURAL BACKGROUND

M/G Transport propounded Interrogatories and Requests for Production of Documents upon Allen, through his counsel of record, on February 24, 2010. Allen did not provide responses to those discovery requests within thirty (30) days of service as required by Fed. R. Civ. P. 33 and 34. At a status conference in this matter, which took place on May 21, 2010, Allen’s counsel advised defense counsel and the Court that he would provide responses to M/G Transport’s discovery requests no later than May 28, 2010. Notwithstanding that representation, no discovery responses were produced by Allen as of the date M/G Transport filed its present motion to compel. Through its motion, M/G Transport seeks to have Allen provide complete answers to the discovery requests at issue and requests an award of the attorney’s fees that it incurred in connection with the preparation and filing of 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-one (21) 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 21 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 3, 2010, and the Court's electronic filing system indicates that notice of the filing of such motion was served upon Allen's counsel electronically on that same date at 4:12 p.m. CDT. Well over twenty-one (21) days have elapsed since the service of the motion, and Allen has failed to file any opposition. The motion is therefore deemed to be unopposed.

In addition to being unopposed, because Allen failed to timely submit any responses or objections to M/G Transport's discovery requests, 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 Allen did not produce written responses or objections to defendant's

discovery requests within thirty (30) days after they were served and did not produce responses by the May 28, 2010 deadline discussed at the status conference in this matter, the present motion to compel will be granted. Allen will be ordered to produce complete responses to M/G Transport's discovery requests within fifteen (15) days of this Order and to pay the reasonable attorney's fees and expenses that M/G Transport incurred in bringing the present motion.

Accordingly;

IT IS ORDERED that the Motion to Compel Plaintiff, Floyd Allen, Jr., to Respond to Discovery (R. Doc. 7) filed by defendant, M/G Transport Services, LLC, is hereby **GRANTED**, and that plaintiff shall provide complete responses to defendant's Interrogatories and Requests for Production of Documents within fifteen (15) days of the date of this Order.

IT IS FURTHER ORDERED that defendant is entitled to an award of the attorney's fees and expenses 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 expenses, plaintiff and/or his counsel shall pay that amount;
- (2) If the parties do not agree to the amount, defendant shall, within fifteen (15) days of the date this Order is signed, submit to the Court a report (along with evidentiary support) setting forth the amount of expenses and attorney's fees incurred in obtaining this Order; and

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

Signed in chambers in Baton Rouge, Louisiana, September 2, 2010.



MAGISTRATE JUDGE CHRISTINE NOLAND