

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BENNY JOHNSON

CIVIL ACTION

VERSUS

NUMBER 10-129-BAJ-SCR

CITY OF BATON ROUGE/EAST
BATON ROUGE PARISH, ET AL.

RULING ON MOTION TO COMPEL DISCOVERY

Before the court is a Motion to Compel Discovery filed by the plaintiff Benny Johnson. Record document number [11](#). No opposition has been filed.

Plaintiff filed this motion to obtain responses to his First Set of Interrogatories and First Set of Request for Production of Documents served on November 23, 2010. Plaintiff asserted that he attempted to contact counsel for the defendants to discuss the discovery requests on two occasions but was unsuccessful. In addition to the discovery responses, the plaintiff sought an award of costs incurred in bringing this motion.

Defendants did not file a response to the plaintiff's motion. Defendants' failure to either object or answer the interrogatories and produce responsive documents demonstrates that under Rule 37(a), Fed.R.Civ.P., the plaintiff is entitled to an order compelling the defendants to respond to the plaintiff's discovery requests. Defendants must answer the interrogatories and produce for inspection and copying all responsive documents within ten

days. No objections will be allowed.¹

Under Rule 37(a)(5)(A), if a motion to compel discovery is granted, the court shall, after affording an opportunity to be heard, require the party whose conduct necessitated the motion to pay to the moving party the reasonable expenses incurred in making the motion, unless the court finds that the motion was filed without the movant first making a good faith effort to obtain the discovery without court action, the party's nondisclosure, response or objection was substantially justified, or that other circumstances make an award of expenses unjust.

Defendants' failure to provide any responses or respond to this motion demonstrates that the plaintiff is entitled to reasonable expenses under this rule.² Plaintiff did not submit anything to support an award of a particular amount of expenses and attorney's fees. A review of the motion and memorandum supports the conclusion that the amount of \$250.00 is reasonable.

Accordingly, the plaintiff's Motions to Compel Discovery is granted. Defendants shall serve substantive answers to the plaintiff's First Set of Interrogatories and produce for inspection and copying all documents responsive to the plaintiff's First Set

¹ Generally, discovery objections are waived if a party fails to timely object to interrogatories, production requests or other discovery efforts. See, *In re U.S.*, 864 F.2d 1153, 1156 (5th Cir.), *reh'g denied*, 869 F.2d 1487 (5th Cir. 1989); *Godsey v. U.S.*, 133 F.R.D. 111, 113 (S.D. Miss. 1990.)

² These same facts show that the defendants' actions are not substantially justified and that there are no circumstances which would make an award of expenses unjust.

of Request for Production of Documents, without objections, within ten days. Pursuant to Rule 37(a)(5)(A), the defendants are also ordered to pay to the plaintiff, within ten days, reasonable expenses in the amount of \$250.00.

Baton Rouge, Louisiana, February 17, 2011.



STEPHEN C. RIEDLINGER
UNITED STATES MAGISTRATE JUDGE