

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

**FRED NAPIER, ASHLEY TRENT
AND DENNIS NEACE**

CIVIL ACTION

VERSUS

**RENASANT INSURANCE, INC.
PETTY TRUCKING, INC.
AND NEAL FAIRLEY**

NO. 10-315-B-M2

RULING & ORDER

This matter is before the Court on the Motion to Compel Written Discovery Answers and Responses (R. Doc. 8) filed by defendant, Gramercy Insurance Company (“Gramercy”). Plaintiffs, Fred Napier, Ashley Trent, and Dennis Neace (“plaintiffs”), have not filed an opposition to this motion.

FACTS & PROCEDURAL BACKGROUND

Gramercy propounded Interrogatories and Requests for Production of Documents upon plaintiffs on August 23, 2010. On October 14, 2010, Gramercy’s counsel set a Rule 37.1 conference for October 21, 2010, in order to discuss the outstanding discovery responses. On October 21, 2010, Gramercy’s counsel received an email from plaintiffs’ counsel’s legal assistant indicating that plaintiffs’ counsel was out of the office but would call Gramercy’s counsel upon his return to the office the following week. As of November 12, 2010, however, plaintiffs’ counsel had not call Gramercy’s counsel to discuss the status of plaintiffs’ discovery responses. Gramercy therefore filed the present motion on November 12, 2010, seeking complete responses to its interrogatories and requests for production as well as an award of the reasonable costs and attorney’s fees that Gramercy

incurred in bringing the present 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 November 12, 2010, and the Court's electronic filing system indicates that notice of the filing of the motion was sent to plaintiffs' counsel on that same date at 3:09 p.m. CST. Thus, more than twenty-one (21) days have elapsed since the service of the motion, and plaintiffs have failed to file any opposition. The motion is therefore deemed to be unopposed.

In addition to being unopposed, because plaintiffs have failed to submit any responses or objections to Gramercy'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 plaintiffs neither submitted written responses or objections to Gramercy's discovery requests within thirty (30) days after they were served nor obtained a court order or a written agreement from Gramercy extending the time period within which to respond, Gramercy's motion to compel will be granted. Plaintiffs will be ordered to submit complete responses to Gramercy's interrogatories and requests for production within fifteen (15) days of this Order and to pay the reasonable attorney's fees and costs that Gramercy incurred in bringing the present motion.

Accordingly;

IT IS ORDERED that the Motion to Compel Written Discovery Answers and Responses filed by defendant, Gramercy Insurance Company, is hereby **GRANTED**, and that plaintiffs, Fred Napier, Ashley Trent, and Dennis Neace, shall provide complete responses to Gramercy's Interrogatories and Requests for Production of Documents within fifteen (15) days of the date of this Order.

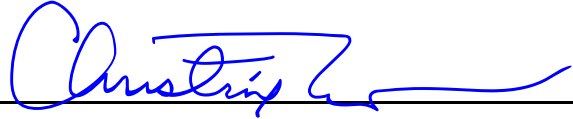
IT IS FURTHER ORDERED that Gramercy Insurance Company is entitled to an award of the reasonable attorney's fees and costs that it incurred in bringing this motion to compel and that, in connection with that award, the parties are to do the following:

- (1) If the parties agree to the amount of attorney's fees and costs, plaintiffs and/or their counsel shall pay that amount;
- (2) If the parties do not agree to the amount, Gramercy shall, within fifteen (15) days of the date this Order is signed, submit to the Court a report setting forth the amount of costs and attorney's fees (including evidentiary support)

incurred in obtaining this Order; and

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

Signed in chambers in Baton Rouge, Louisiana, December 8, 2010.



MAGISTRATE JUDGE CHRISTINE NOLAND