

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

**JOYCE CAINE AND BERNARD
CAINE**

CIVIL ACTION

VERSUS

**STATE FARM FIRE AND
CASUALTY COMPANY**

NO. 10-556-C-M2

RULING & ORDER

This matter is before the Court on the Motion to Compel Discovery Responses (R. Doc. 7) filed by defendant, State Farm Fire and Casualty Company (“State Farm”). Plaintiffs, Joyce Caine and Bernard Caine (collectively “plaintiffs”), have not filed an opposition to this motion.

FACTS & PROCEDURAL BACKGROUND

State Farm propounded Interrogatories and Requests for Production of Documents upon plaintiffs on September 24, 2010. Plaintiffs failed to respond to such discovery requests within the time delays allowed by law. On January 18, 2010, a Rule 37 Conference was held by counsel for both parties, at which time the outstanding discovery responses were discussed, and plaintiffs’ counsel agreed to provide responses within two (2) weeks, or by February 1, 2011. When plaintiffs had not provided complete discovery responses by February 10, 2011, State Farm filed the present motion. Through this motion, State Farm seeks not only complete responses to its interrogatories and requests for production but also an award of the reasonable costs and fees that it incurred in connection with 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 February 10, 2011, 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 3:36 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 State Farm'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 did not submit written responses or objections to State Farm's discovery requests within thirty (30) days after they were served nor did they obtain a court order or a written agreement from State Farm extending the time period within which to respond, State Farm's motion to compel will be granted. Plaintiffs will be ordered to submit complete responses to State Farm's interrogatories and requests for production within fifteen (15) days of this Order and to pay the reasonable attorney's fees and costs that State Farm incurred in bringing the present motion.

Accordingly;

IT IS ORDERED that the Motion to Compel Discovery Responses (R. Doc. 7) filed by defendant, State Farm Fire and Casualty Company, is hereby **GRANTED**, and that plaintiffs, Joyce Caine and Bernard Caine, shall provide complete responses to State Farm's Interrogatories and Requests for Production of Documents within fifteen (15) days of the date of this Order.

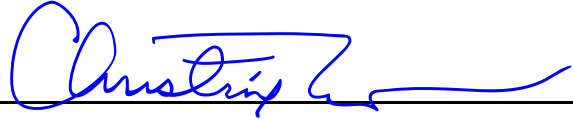
IT IS FURTHER ORDERED that State Farm Fire and Casualty Company is entitled to an award of the reasonable attorney's fees and costs that it incurred in bringing this motion to compel and that, in connection with that award, the parties are to do the following:

- (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, State Farm 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 State Farm's report to file an opposition.

Signed in chambers in Baton Rouge, Louisiana, March 9, 2011.



MAGISTRATE JUDGE CHRISTINE NOLAND