

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

BARBARA MURPHY

CIVIL ACTION

VERSUS

NUMBER 10-802-BAJ-DLD

THE PANTRY, INC.

ORDER

This matter is before the court on a referral from the district court on defendant's motion to compel responses to discovery (rec.doc. 7), filed herein on April 8, 2011. According to Local Rule 7.4, any opposition to this motion was required to be filed within twenty-one (21) days after service. Plaintiff's response to the motion was due April 29, 2011, but as of May 9, 2011, the court has not received such response.

Defendant stated in its motion that it propounded interrogatories and requests for production of documents to plaintiff on December 9, 2010, but despite having held a discovery conference on March 29, 2011, no resolution was reached regarding the outstanding responses to discovery. (rec. doc. 7-1) In reviewing the motion, the court notes that it was filed before the parties conferred as required by F.R.C.P. Rule 26(f), and no written report regarding a proposed discovery plan has been filed. Also, under F.R.C.P. 26(d), a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f).¹ In addition, this court requires that any meeting of the parties prior to the scheduling conference be held in time to permit the report of the meeting (the "status report") to be filed with the court no later than two days prior to the date of the scheduling conference. Local Rule 26.2. In this case, the scheduling conference has not

¹ Rule 26(d) and Local Rule 26.2 allow exceptions to the requirements of Rule 26(f), but those exceptions are not applicable to this matter.

yet been set; thus, defendant's discovery request is premature and the motion must be dismissed. Accordingly,

IT IS ORDERED that the motion to compel (rec. doc. 7) be **DISMISSED as premature.**

Signed in Baton Rouge, Louisiana, on May 9, 2011.



MAGISTRATE JUDGE DOCIA L. DALBY