

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

TERRY BONNER, ET AL
VERSUS
GEORGIA-PACIFIC, LLC

CIVIL ACTION
NO. 12-456-SDD-RLB

RULING & ORDER OF DISMISSAL

Local Rule 7.4 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 provides as follows:

LR 7.4 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 reasons in opposition to the motion, and a citation of authorities 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.

In the present case, a *Motion to Dismiss Claims of Remaining Plaintiffs*¹ was filed by the Defendant. The certificate of service verifies that a copy of the pleading was mailed to the remaining Plaintiffs who are *pro se*. Plaintiffs were required to file an opposition to this motion on or before December 30, 2013. The record reflects that no memorandum in opposition to the motion has been submitted by the Plaintiffs and no requests for

¹ Rec. Doc. No. 77.

extensions of time have been made.

Accordingly, this motion is deemed to be unopposed and, further, after reviewing the record, the Court finds that the motion has merit. The record in this case clearly establishes that the Plaintiffs have failed to adequately participate in discovery and have repeatedly failed to comply with orders of the Court. Thus,

IT IS ORDERED that the *Motion to Dismiss Claims of Remaining Plaintiffs* by Defendant Georgia-Pacific, LLC is hereby GRANTED, and this action is hereby DISMISSED, without prejudice.² Any response to this ruling, based on the appropriate Federal Rule of Civil Procedure, shall be filed within fourteen (14) days and must be accompanied by an opposition memorandum to the original motion.

On review of the pleadings filed along with the opposition, the Court, at its discretion, may assess costs, including attorney's fees, against the moving party if the Court deems that such a motion was unnecessary had a timely opposition memorandum been filed. A statement of costs conforming to L.R. 54.3 shall be submitted by all parties desiring to be awarded costs and attorney's fees no later than seven (7) days prior to the hearing on the newly filed motion.

The Defendant has sought attorney's fees and expenses incurred in connection with the preparation and filing of this motion as allowed under Rule 37(b)(2)(C) of the Federal Rules of Civil Procedure. The Court finds that the Defendant is entitled to such an award. Counsel for the Defendant shall submit to the Court, within 14 days from the date of this *Ruling and Order*, itemized evidence of the reasonable expenses, including attorney's fees,

² If no opposition is filed within 14 days of this *Ruling*, the dismissal is converted to a dismissal with prejudice and judgment shall be entered accordingly at that time.

incurred in the filing of this motion. The Court cannot simply award fees without a review of the itemized evidence.³

IT IS SO ORDERED.

BATON ROUGE, Louisiana, this 10 day of January, 2014.



SHELLY D. DICK, DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA

³ See *Dykes v. Maverick Motion Picture Group, L.L.C.*, No. 08-536, 2011 WL 2197637 at *2 (M.D. La. 6/1/11).