

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

COREY DELAHOUSSAYE, ET AL.

CIVIL ACTION

VERSUS

NUMBER 12-481-SDD-SCR

LIVINGSTON PARISH,  
LOUISIANA, ET AL

**RULING MOTION TO COMPEL DISCOVERY**

Before the court is a Motion to Compel Discovery filed by defendant Livingston Parish, Louisiana. Record document number 79. The motion is opposed.<sup>1</sup>

Defendant filed this motion to compel plaintiffs Corey Delahoussaye and C-Del, Inc. to respond to discovery requests served on November 17, 2014. Defendant asserted that a discovery conference was held on December 15, 2014, and the plaintiffs' counsel requested a one-week extension to provide the discovery responses.<sup>2</sup> Defendant asserted that after that deadline passed without receipt of any responses, it filed this motion on December 24, 2014.

Plaintiffs provided evidence to show that their responses were

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<sup>1</sup> Record document number 83.

<sup>2</sup> Defendant's calculation of the extended deadline date its supporting memorandum, December 22, 2014, is different from the date in its Certificate Pursuant to FRCP 37(a)(2)(B), December 19, 2014. Record document numbers 79-1 and 79-3, respectively. For purposes of this ruling, the Court will assume that a one-week extension would have expired on December 22, 2014.

sent to the defendant on December 26, 2014.<sup>3</sup> Thus, the defendant's request for an order compelling production of discovery responses is moot.

Because the plaintiffs provided their responses after the motion was filed, Rule 37(a)(5)(1) permits awarding the defendant its reasonable expenses. An award of expenses is required unless the failure to provide the discovery was substantially justified or other circumstances make an award of expenses unjust.

Defendant's motion shows that a good faith attempt was made to obtain the discovery without court action. Plaintiffs' counsel asserted that she believed the defendant had granted a 10-day extension, and that the deadline to respond was December 26, 2014.<sup>4</sup> Plaintiffs' counsel also informed the defendant that she had been in the hospital with a family member the week of Christmas.<sup>5</sup> Plaintiffs argued that the defendant was not prejudiced by getting the responses a few days later.

While a specific demand is not required to award fees under Rule 37(a)(5)(1), the defendant did not specifically request an award of expenses in its motion or contest the plaintiffs' assertions in their opposition. These facts, considered in light

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<sup>3</sup> Record document number 83-2.

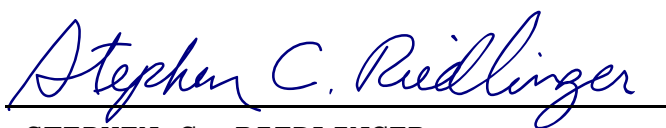
<sup>4</sup> Because the 10-day extension ended on Christmas Day, the plaintiffs argued that the deadline expired on December 26, 2014.

<sup>5</sup> Record document number 83-3.

of the plaintiffs' reasons for the alleged delay, establish circumstances that make an award of expenses unjust.

Accordingly, the Motion to Compel Discovery filed by defendant Livingston Parish, Louisiana denied as moot. Based on the circumstances demonstrated by the plaintiffs, an award of expenses pursuant to 37(a)(5)(1) is not warranted.

Baton Rouge, Louisiana, March 3, 2015.

A handwritten signature in blue ink that reads "Stephen C. Riedlinger". The signature is written in a cursive style and is positioned above a horizontal line.

STEPHEN C. RIEDLINGER  
UNITED STATES MAGISTRATE JUDGE