

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

CHAD DURRELL ROBINSON

CIVIL ACTION

VERSUS

NUMBER 13-298-BAJ-SCR

CITY OF ST. GABRIEL, ET AL

**RULING MOTION TO COMPEL DISCOVERY**

Before the court is Defendants' Motion to Compel Plaintiff's Discovery Responses filed by The City of St. Gabriel, Mayor Lionel Johnson, Police Chief Kevin Ambeau, Officer Robert Jones, Jr., Officer J. Darville, and Officer S. Redditt. Record document number 14. No opposition has been filed.

Defendants filed this motion to compel the plaintiff to respond to their Interrogatories and Request for Production of Documents propounded on November 21, 2013.<sup>1</sup> Defendants' attorney sent a letter to the plaintiff's attorney on December 23, 2013 inquiring about the past due discovery responses.<sup>2</sup> When no response was received, the defendants' attorney sent a second letter on January 14, 2014 to schedule a Rule 37, Fed.R.Civ.P., conference for January 21, 2014.<sup>3</sup> Defendants asserted that their counsel spoke to the plaintiff's attorney's assistant on the day of the conference who stated that responses would be provided by

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<sup>1</sup> Record document 14-3, Exhibit A.

<sup>2</sup> Record document 14-4, Exhibit B.

<sup>3</sup> Record document 14-5, Exhibit C.

February 3, 2014. No responses had been received at the time this motion was filed.

Despite multiple efforts to obtain the discovery responses, the plaintiff did not serve his answers to interrogatories or produce responsive documents. Nor has the plaintiff responded to this motion or otherwise furnished any information indicating when his discovery responses will be provided. In these circumstances, under Rule 37(b) and (d)(1)(A), Fed.R.Civ.P., the defendants are entitled to an order compelling the plaintiff to respond and imposing sanctions. Plaintiff will be required to answer the interrogatories and produce responsive documents for inspection and copying within 10 days. No objections will be allowed.<sup>4</sup> Rule 37(d)(3) incorporates the sanctions available under Rule 37(b)(2)(A)(i)-(vi). However, the defendants did not seek additional sanctions.

Under Rule 37(d)(3) the court must require the party failing to act, or the attorney advising that party, or both, to pay the reasonable expenses, including attorney's fees caused by the failure unless the failure was substantially justified or other circumstances make an award of expenses unjust. Defendants' motion shows that a good faith attempt was made to obtain the discovery

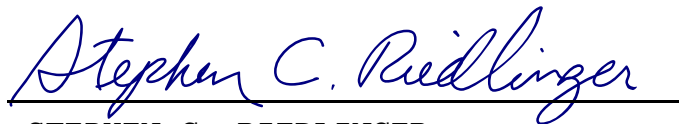
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<sup>4</sup> Generally, discovery objections are waived if a party fails to timely object to interrogatories, production requests or other discovery efforts. See, *In re U.S.*, 864 F.2d 1153, 1156 (5th Cir.), *reh'g denied*, 869 F.2d 1487 (5th Cir. 1989); *Godsey v. U.S.*, 133 F.R.D. 111, 113 (S.D. Miss. 1990.)

responses without court action. Nothing in the record indicates that the plaintiff's failure was substantially justified or that there are any circumstances which would make an award of expenses unjust. Therefore, the defendants are entitled to reasonable expenses under Rule 37(d)(3). Defendants did not claim a specific amount of expenses incurred in filing this motion. However, a review of the motion and memorandum supports the conclusion that an award of \$250.00 is reasonable.

Accordingly, Defendants' Motion to Compel Plaintiff's Discovery Responses filed by The City of St. Gabriel, Mayor Lionel Johnson, Police Chief Kevin Ambeau, Officer Robert Jones, Jr., Officer J. Darville, and Officer S. Redditt is granted. Plaintiff shall serve his answers to interrogatories, and produce for inspection and copying all documents responsive to the defendants' requests for production, without objections, within 10 days. Pursuant to Rule 37(d)(3), the plaintiff is also ordered to pay to the defendants, within 10 days, reasonable expenses in the amount of \$250.00.

Baton Rouge, Louisiana, March 3, 2014.

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