

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

ANGELA OSBORNE	*	CIVIL ACTION NO. 16-0545
VERSUS	*	JUDGE ROBERT G. JAMES
JOHN MCARDLE ET AL.	*	MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

Before the undersigned Magistrate Judge, on reference from the District Court, is a Motion to Compel and for Attorney's Fees and Costs, [doc. # 12], filed by Plaintiff Angela Osborne. The motion is unopposed. For reasons assigned below, the motion is **GRANTED**.¹

Background

On August 16, 2016, Osborne propounded her first set of interrogatories and requests for production on Defendants John McArdle and Nationwide Agribusiness Insurance Company ("Nationwide"). [doc. #12, Exh. P-1]. Defendants' responses remain due. Additionally, Plaintiff's counsel sent a letter to defense counsel on October 5, 2016, requesting available dates for deposing McArdle. *Id.* Exh. P-2. Defense counsel has not responded to Plaintiff's request. Defendants also did not oppose the instant motion to compel. Thus, it appears that Defendants are entirely unresponsive to matters in this case.

Plaintiff now moves to compel responses to Plaintiff's first set of interrogatories and

¹ As this motion is not excepted within 28 U.S.C. § 636(b)(1)(A), nor dispositive of any claim on the merits within the meaning of Rule 72 of the Federal Rules of Civil Procedure, this order is issued under the authority thereof, and in accordance with the standing order of this court. Any appeal must be made to the district judge in accordance with Rule 72(a) and L.R. 74.1(W).

requests for production. She further requests sanctions in the form of attorney's fees and costs incurred in filing and proceeding with this motion.

Law and Analysis

I. Failure to Respond to Plaintiff's Discovery

Interrogatories must be answered by the party to whom they are directed. FED. R. CIV. P. 33(b)(1)(A). A responding party must serve its answers and any objections within 30 days after being served with interrogatories, unless the parties stipulate to a different deadline. *Id.* (b)(2). Similarly, a party to whom requests for production are directed must respond in writing within 30 days after being served. FED. R. CIV. P. 34(2)(A). Plaintiff propounded discovery on Defendants on August 16, 2016. Thus, Defendants' answers and any objections were due by September 15, 2016. To date, Defendants have failed to respond and have not contacted Plaintiff's counsel with any explanation for failing to do so. Accordingly, Plaintiff's motion to compel responses to her first set of interrogatories and requests for production is **GRANTED**.

II. Attorney's Fees and Costs

If a motion to compel is granted, "the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." FED. R. CIV. P. 37(a)(5). Rule 37 authorizes exceptions, however, for nondisclosures that were substantially justified, or other circumstances that make an award unjust. *Id.* Furthermore, the court "may, on motion, order sanctions if . . . a party after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections or written response." *Id.* at (d)(A). Defendants failed to

oppose this motion, or otherwise explain or justify their actions in failing to respond to discovery. Accordingly, Plaintiff's motion for attorney's fees and costs incurred in bringing this motion is **GRANTED**.

Conclusion

For the reasons stated above,

IT IS ORDERED that Plaintiff's motion, [doc. # 12], is GRANTED. Defendants are to provide full and complete responses to Plaintiff's discovery requests, along with their available dates for depositions, within 15 days of the date of this.

IT IS FURTHER ORDERED that Defendants pay attorney's fees in the amount of \$500.00 to Plaintiff Angela Osborne, **with proof of payment filed in the record of these proceedings within 15 days of the date of this order.**

In Chambers, at Monroe, Louisiana, this 16th day of November 2016.


KAREN L. HAYES
UNITED STATES MAGISTRATE JUDGE