

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANITA DRIVER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:13-CV-76 (CEJ)
)	
BIG DADDY'S ON THE LANDING, INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for sanctions. Defendant has responded in opposition, and the issues are fully briefed.

Plaintiff moves for sanctions against defendant for its failure to fully respond to Interrogatory 8 of plaintiff's first set of interrogatories, in violation of the order compelling defendant to answer. Interrogatory 8 asked defendant to identify and provide contact information for individuals it employed during the period of plaintiff's employment. Plaintiff explains that, at least one employee, Brittany Schroyer, was excluded from defendant's answer. Defendant argues that the exclusion of this witness was accidental. Defendant also states that, upon further investigation, it discovered that it had omitted two additional independent contractors from its response. The defendant offers no explanation for how the initial omission occurred nor any explanation of how it determined that further omissions had been made.

The Court has warned defendant that it will not tolerate obstructive or bad faith conduct and will not hesitate to impose sanctions when appropriate to address such behavior. Considering defendant's prior course of conduct throughout discovery, the Court finds its proffered excuses---*i.e.*, its misunderstanding of the terms "employee" and "employed"-- - difficult to believe. Nor is the Court persuaded by defendant's

attempt to shift blame to plaintiff for failing to detect the omissions. However, the sanction requested by plaintiff, which would preclude defendant from calling as witness any employee included in its answers to Interrogatory 8 following the original order to compel, is extreme and unwarranted at this time. The Court will impose sanctions commensurate to defendant's violation.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for sanctions [Doc. #66] is granted in part and denied in part.

IT IS FURTHER ORDERED that defendant shall fully answer Interrogatory 8 on or before June 20, 2014

IT IS FURTHER ORDERED that defendant shall be precluded from calling as witness any employee or former employee omitted from its original answer to Interrogatory 8.

IT IS FURTHER ORDERED that, if the defendant's supplemental answer discloses additional current or former employees not previously disclosed in the original answer, discovery shall be extended to allow plaintiff to depose the additional employees at defendant's cost.

IT IS FURTHER ORDERED that defendant shall pay the attorneys' fees and expenses reasonably incurred by plaintiff's counsel in connection with the instant motion for sanctions. Counsel for plaintiff shall have until July 1, 2014 to file a verified statement of the fees and costs so incurred.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 13th day of June, 2014.