

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

WILLIAM DUANE LEWTON, et al.,)	
)	
Plaintiffs,)	
)	8:09CV2
vs.)	
)	ORDER
DIANNA DIVINGNZZO, et al.,)	
)	
Defendants.)	

On April 21, 2010, the court granted the plaintiffs' motion to compel discovery from defendants, Dianna Divingnzzo and Sam Divingnzzo (together, "Divingnzzos"). The Divingnzzos were given until June 1, 2010 to file a Response to the court's Memorandum and Order (Doc. [74](#)), showing cause why the plaintiffs should not be awarded reasonable costs and attorney's fees incurred in bringing their motion to compel, in accordance with Fed. R. Civ. P. 37(a)(4)(A).

On April 27, 2010, defense counsel filed a "Response" (Doc. [80](#)) and supporting Index (Doc. [81](#)), confirming that the Divingnzzos did not provide signed discovery responses until long after plaintiffs had filed their motion to compel and confirming that the Divingnzzos did not file any response to the Motion to Compel.

The "Response" does not address many of the substantive defects in the Divingnzzos' responses that were discussed in the April 21, 2010 Memorandum and Order. Notwithstanding the filing of the "Response," the Divingnzzos are still required to supplement their discovery responses no later than **May 14, 2010** in full compliance with the court's Memorandum and Order (Doc. [74](#)). The "Supplemental" responses contained in the Divingnzzos' Index (Doc. [81](#)) do not suffice.

Upon review of the "Response" (Doc. [80](#)) and Index (Doc. [81](#)) filed by defense counsel on April 27, 2010,

IT IS ORDERED:

1. Defendants, Dianna Divingnzzo and Sam Divingnzzo, have waived all objections to the Interrogatories and Requests for Production of Documents that are the subject of plaintiffs' Motion to Compel (Doc. [65](#)).

2. Defendants, Dianna Divingnzzo and Sam Divingnzzo, are given until the close of business on **May 14, 2010** to serve complete responses to all of the plaintiff's interrogatories and requests for production of documents. The supplemental responses must be signed and must, in all respects, comply with the requirements of Fed. R. Civ. P. 33 and 34. Further, the Divingnzzos's amended responses to the document requests designated in plaintiffs' Motion to Compel (Doc. [65](#)) shall specifically indicate (a) whether responsive documents do or do not exist and (b) whether all responsive documents have been produced after a diligent and good faith effort to locate and identify responsive materials. **Defendants, Dianna Divingnzzo and Sam Divingnzzo, shall file a Notice of Service, showing full compliance with this paragraph, no later than May 18, 2010.**

3. Defendants, Dianna Divingnzzo and Sam Divingnzzo, are given until **June 1, 2010** to file a Response to this Order and the Memorandum and Order of April 21, 2010 (Doc. [74](#)), showing cause why the plaintiffs should not be awarded reasonable costs and attorney's fees they incurred in bringing their motion to compel (Doc. [65](#)), in accordance with Fed. R. Civ. P. 37(a)(4)(A).

DATED April 28, 2010.

BY THE COURT:

s/ **F.A. Gossett**
United States Magistrate Judge