

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

REDDICK MANAGEMENT CORP., and
KEVIN REDDICK, Individually and in his
Official Capacity as Owner of Reddick
Management Corp.;

Plaintiffs,

vs.

CITY OF OMAHA, NEBRASKA,

Defendant.

8:16CV99

ORDER

This matter is before the Court on Defendant's Motion to Compel Discovery Responses and for Sanctions ([Filing No. 96](#)). Plaintiffs have not responded to the motion. For the reasons explained below, the motion will be granted.¹

DISCUSSION

On May 26, 2017, Defendant served Plaintiffs with document production requests. ([Filing No. 63](#).) Plaintiffs did not respond to the requests until August 10, 2017. ([Filing Nos. 97-1](#); [97-2](#).) In these responses, Plaintiffs acknowledged that they would need to supplement their production. ([Filing No. 97-2](#).) Plaintiffs also stated that responsive documents were being withheld pending the Court's resolution of Defendant's then-pending motion to dismiss. ([Filing No. 96](#).) An order on the motion to dismiss was issued on September 11, 2017. ([Filing No. 82](#).) However, Plaintiffs did not produce additional documents following the ruling.

Throughout January, 2018, Defendant's counsel made numerous attempts to contact Plaintiffs' counsel, Justin Wayne, regarding the outstanding discovery. Despite these efforts and promises to supplement made by Mr. Wayne, Defendant was unable to obtain supplemental

¹ Because Plaintiffs did not respond to the motion, the Court relies upon the statement of facts and evidence provided by Defendant, except to the extent that the facts are otherwise contradicted by the record.

responses. ([Filing No. 97.](#)) Ultimately, Defendant's counsel requested that the undersigned hold a telephone conference regarding the discovery dispute. ([Filing No. 97-9.](#)) A telephone conference was held on February 1, 2018, but Justin Wayne did not appear. Following the conference, the undersigned entered a text order directing Plaintiffs to provide full and complete discovery responses by February 5, 2018. (Filing No. 95.)

On February 6, 2018, Mr. Wayne contacted Defendant's counsel requesting an extension until the following day to comply with the Court's order. ([Filing No. 97-11.](#)) Defendant's counsel agreed to the extension. On February 7, 2018, Mr. Wayne emailed revised responses to the document production requests, attaching three documents. ([Filing No. 97-12.](#)) According to Defendant, only one of the attached documents had not been previously produced. After reviewing the revised responses, Defendant's counsel determined that the responses remained deficient. In the following days, Defendant's counsel made several attempts to contact Mr. Wayne regarding the matter. Mr. Wayne responded to a few of Defendant's counsel's emails and even agreed to a telephone conference. ([Filing No. 97.](#)) However, when Defendant's counsel called Mr. Wayne, Mr. Wayne did not answer. Defendant's counsel left a voice message and sent a follow-up email requesting that Mr. Wayne call him back. Mr. Wayne did not return the call and Defendant's counsel did not receive any further correspondence from Mr. Wayne. ([Filing No. 97.](#)) Thus, Defendant filed the instant Motion to Compel and for Sanctions on February 16, 2018.

Despite the numerous email communications, the scheduling of a telephone conference with the Court, and the Court's issuance of an order directing that Plaintiffs provide full and complete discovery responses, Plaintiffs have failed to provide proper responses to Defendant's discovery requests. In light of this, the undersigned finds that monetary sanctions are warranted in this case.

Accordingly,

IT IS ORDERED as follows:

1. Defendant's Motion to Compel and for Sanctions ([Filing No. 96](#)) is granted. Defendant will be awarded the expenses and fees it incurred in attempting to obtain Plaintiffs' discovery responses.

2. By April 3, 2018, Defendant shall submit evidence of the expenses and fees it incurred in attempting to obtain Plaintiffs' discovery responses.

3. Plaintiffs shall provide full and complete responses to Defendant's discovery requests no later than March 27, 2018. In the event timely and complete responses are not provided, the Court will consider the imposition of additional sanctions.

Dated this 20th day of March, 2018.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge