

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COLONY INSURANCE CO.,)	
)	Case No. 2:10-cv-01943-KJD-GWF
Plaintiff,)	
)	<u>ORDER</u>
vs.)	
HAROLD KUEHN, <i>et al.</i> ,)	Motion to Compel (#18)
)	
Defendants.)	

This matter is before the Court on Plaintiff Colony Insurance Company’s Notice of Motion and Motion to Compel Discovery From Defendants Harold Kuehn, Thomas Gibson and Gibson & Kuehn, LLP (#18), filed March 29, 2011.

Plaintiff requests an order compelling 1) Defendant Harold Kuehn to respond to Colony Insurance Co.’s first set of interrogatories and first set of requests for production; 2) Defendants Thomas Gibson and the law firm of Gibson & Kuehn, LLP to respond to Colony Insurance Co.’s first set of requests for production; and (3) Defendant Kuehn, Gibson and Gibson & Kuehn to provide their Fed.R.Civ.P. 26 initial disclosures. (#18). To date, no party has responded to this motion and the time for opposition has now passed. LR 7-2(d) states in pertinent part, that “[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.” As a result, the Court will grant Plaintiff’s motion to compel (#18).

In addition, because Defendants failed to timely respond to Plaintiff’s discovery requests, Defendants shall substantively respond without objection. A party who fails to serve responses or objections in a timely manner has waived any and all objections to discovery requests. Fed.R.Civ.P. 33(b), 34(b); *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992) (finding waiver of objections due to untimely response to requests for production); *David v. Fendler*,

1 650 F.2d 1154, 1160 (9th Cir. 1981) (finding waiver of objections due to untimely response to
2 interrogatories). See also *Senat v. City of New York*, 255 F.R.D. 338, 339 (E.D.N.Y. 2009) (stating that
3 “there is consistent authority that a failure to serve timely responses to interrogatories and document
4 requests serves as a waiver of objections.”); *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 409-10
5 (C.D.Cal. 2005). Accordingly,

6 **IT IS HEREBY ORDERED** that Plaintiff Colony Insurance Company’s Motion to Compel
7 Discovery From Defendants Harold Kuehn, Thomas Gibson and Gibson & Kuehn, LLP (#18) is
8 **granted** as follows:

- 9 1. Defendant Harold Kuehn shall substantively respond without objection to Plaintiff’s first
10 set of interrogatories and first set of request for production by **May 9, 2011**;
- 11 2. Defendants Thomas Gibson and the law firm of Gibson & Kuehn, LLP shall
12 substantively respond without objection to Plaintiff’s first set of requests for production
13 by **May 9, 2011**; and
- 14 3. Defendant Kuehn, Gibson and Gibson & Kuehn shall provide their Fed.R.Civ.P. 26
15 initial disclosures to Plaintiff by **May 9, 2011**.

16 **IT IS FURTHER ORDERED** that the hearing on this matter scheduled for Thursday, April 28,
17 2011 is **vacated**.

18 DATED this 20th day of April, 2011.

19
20 
21 **GEORGE FOLEY, JR.**
22 **United States Magistrate Judge**
23
24
25
26
27
28