

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:13-CV-235-FL

BARBARA ARMSTRONG,)
)
 Plaintiff,)
)
 v.)
)
 YOPP PROPERTIES, LLC,)
)
 Defendant.)

ORDER

This matter comes before the court on plaintiff’s motions to compel admissions (DE 26) and requests for production of documents (DE 37), filed July 29, 2014, also sounding as a motion for sanctions. While the response time has not yet elapsed, the court addresses now both motions.

As to the motion to compel admissions, it is DENIED, where Rule 36(a)(4) provides that any request not timely responded to is deemed admitted. To the extent plaintiff served previously the requests for admissions memorialized in her motion upon defendant, and more than 30 days have elapsed with no response being made, all requests have been admitted and, therefore, plaintiff has her answers upon which she may rely in this proceeding.

As to the motion to compel documents, because it is not clear that plaintiff has served previously these requests for production of documents upon defendant, therefore, her motion is DENIED subject to her showing in supplement to this motion within 14 days that more than 30 days now have elapsed since the requests at issue were served by her with no response being made. If that is the case, the court then will take back up this motion.

Because the circumstances of which plaintiff complains are not clear on the face of the record, the court dispenses here alternative rulings:

1. Alternatively, if it cannot be shown by plaintiff that her requests for admissions and requests for production of documents earlier were served in the forms submitted by plaintiff and lodged on the docket July 29, 2014 (DE 36, 37), in its discretion, the court deems that date the effective service date of her requests as therein contained.

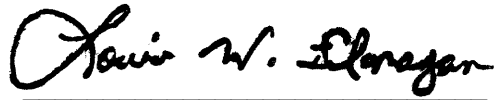
a. If defendant fails to respond, plaintiff may bring another motion before the court directed to the requests for production of documents.

b. Again where the rule provides “[a] matter is admitted unless within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney,” Fed.R.Civ.Pro. 36(a)(4), should defendant fail timely to respond, plaintiff will have her answers upon which she may rely in this proceeding.

2. Alternatively, if it be shown by plaintiff that her requests for admissions and requests for production of document earlier were served in the forms submitted by plaintiff and lodged on the docket July 29, 2014 (DE 36, 37), and defendant objected, or responded in a way plaintiff deems incomplete or objectionable, plaintiff may breathe new life in her motions to compel (DE 36, 37) simply by supplementing these motions with copies of defendant’s responses, again within 14 days.

The clerk shall terminate the motions in accordance with the court's order, subject to renewal as herein specified.

This the 31st day of July, 2014.

A handwritten signature in black ink that reads "Louise W. Flanagan". The signature is written in a cursive style with a large initial "L".

LOUISE W. FLANAGAN
United States District Judge