UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

WILSHIRE INSURANCE COMPANY,

        Plaintiff,

v.   Case No: 6:23-cv-426-CEM-LHP

AIRPORT RESTAURANT, LLC and
MARLON BATES,

        Defendants

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

> **MOTION:**   **COUNTER-PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS REQUESTED IN FIRST REQUEST FOR PRODUCTION (Doc. No. 53)**
>
> **FILED:**   **March 29, 2024**
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> **THEREON** it is **ORDERED** that the motion is **GRANTED**.

Defendant/Counter-Plaintiff Marlon Bates ("Bates") seeks to compel Plaintiff/Counter-Defendant Wilshire Insurance Company ("Wilshire") to respond in full to Bates' First Request for Production.   Doc. No. 53; *see also* Doc. Nos. 53-1

through 53-4.   According to Bates, despite multiple meet and confers and deadline extensions, Wilshire has failed to produce materials responsive to several of the requests for production.   Doc. No. 53, at 2–3.

Wilshire, who at all times has been represented by counsel, has not responded to the motion, and its time for doing so has expired.   *See* Doc. No. 28 ¶ 5 (providing that opposition briefing to a discovery motion must be filed no later than five days after the motion).   *See also* Fed. R. Civ. P. 6(a)(1).   Accordingly, the Court deems the motion to be unopposed in all respects.   *See* Doc. No. 28 ¶ 5 (stating that failure to file a timely response will result in the discovery motion being deemed unopposed).   *See also Westchester Surplus Lines Ins. Co. v. Paramount Disaster Recovery, LLC*, No. 6:18-cv-1738-Orl-37DCI, 2019 WL 5294804, at *1 (M.D. Fla. Apr. 19, 2019) ("The Court routinely grants motions as unopposed where the opposing parties have not filed a response in opposition to the motion."); *Bercini v. City of Orlando*, No. 6:15-cv-1921-Orl-41TBS, 2016 WL 11448993, at *2 (M.D. Fla. Sept. 28, 2016) (granting in full unopposed motion to compel); *Daisy, Inc. v. Pollo Operations, Inc.*, No. 2:14-cv-564-FtM-38CM, 2015 WL 2342951, at *1 (M.D. Fla. May 14, 2015) (when defendant did not respond court could consider motion to compel unopposed).

Upon review of the unopposed motion, and the related discovery attached, the Court finds Bates' motion well taken.[1]   Accordingly, it is **ORDERED** as follows:

1.   Counter-Plaintiff Marlon Bates' Motion to Compel Production of Documents Requested in First Request for Production (Doc. No. 53) is **GRANTED**.

2.   On or before **April 18, 2024,** Plaintiff/Counter-Defendant Wilshire Insurance Company shall produce to Bates all documents in its current possession, custody, or control responsive to Bates' First Request for Production.   *See* Doc. No. 53-1.

3.   All objections to the discovery at issue other than attorney client privilege have been waived by the failure to timely respond to the motion to compel.   *See, e.g., Jackson v. Geometrica, Inc.*, No. 3:04-cv-640-J-20HTS, 2006 WL 213860, at *1 (M.D. Fla. Jan. 27, 2006) (objections not addressed in response to a motion to compel are deemed abandoned); *Bercini*, 2016 WL 11448993, at *2 (same); *LIMU Co., LLC v. Burling*, No. 6:12-cv-347-Orl-TBS, 2013 WL 1482760, at *1 (M.D. Fla. April 11, 2013) (same).

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[1] Bates does not request an award of fees and costs or any other relief in its motion, *see* Fed. R. Civ. P. 37(a)(5); accordingly, the Court declines to award any further relief at this time.

4.   To the extent Wilshire intends to assert the attorney client privilege or work product privilege, by this same April 18, 2024 deadline, Wilshire shall serve on Bates a privilege log in the form required by the Court's Standing Order Regarding Privilege Logs, *In Re: Procedure for Assertion of Privilege*, No. 6:19-mc-32-Orl-LRH (Doc. No. 1, June 17, 2019).

5.   Wilshire and Wilshire's counsel are advised that failure to comply with this Order may result in the imposition of sanctions.   *See* Fed. R. Civ. P. 37(b).

DONE and ORDERED in Orlando, Florida on April 4, 2024.

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LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties