

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

AAA AC SUPPLIES, INC.,

Plaintiff,

v.

Case No: 6:23-cv-993-WWB-LHP

FEDERATED MUTUAL INSURANCE
COMPANY,

Defendant

ORDER

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

**MOTION: AMENDED MOTION TO COMPEL BETTER
RESPONSES TO FIRST SET OF DISCOVERY (Doc.
No. 27)**

FILED: June 28, 2024

THEREON it is ORDERED that the motion is GRANTED.

**MOTION: MOTION TO COMPEL RESPONSES TO SECOND
SET OF DISCOVERY (Doc. No. 28)**

FILED: June 28, 2024

THEREON it is ORDERED that the motion is GRANTED.

By the above-styled motions, Defendant Federated Mutual Insurance Company moves to compel Plaintiff AAA AC Supplies, Inc. to: (1) provide better responses to Defendant's First Set of Interrogatories and First Request for Production, specifically full and complete verified answers to Interrogatories numbers 1, 5, 7, 10 and 13, and further responses to Request for Production 1, 4, 5, 6, 7, 9, 10, 14, 23, 25, 26, and 28, and (2) provide responses to Defendant's Second Set of Interrogatories and Second Requests for Production, to which Plaintiff has wholly failed to respond. Doc. Nos. 27-28. Defendant also seeks attorney's fees and costs in bringing the motions. *Id.*

Plaintiff has not responded to either motion, and its time for doing so has expired. *See* Doc. No. 19 ¶ 5 (providing that opposition briefing to a discovery motion must be filed no later than five days after the motion). Accordingly, the Court deems both motions to be unopposed in all respects. *See id.* (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 motions, and the related discovery attached, the Court finds Defendant's motions well taken. The Court further finds sanctions under Federal Rule of Civil Procedure 37 warranted. Rule 37 provides that when, as here, a motion to compel is granted, "the court *must*, after giving an opportunity to be heard, require the party . . . whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A) (emphasis added). While the rule permits the Court to decline to award sanctions under certain circumstances, Fed. R. Civ. P. 37(a)(5)(A)(i)-(iii), Plaintiff has not responded to the motions nor presented any information or argument suggesting that those circumstances apply here.

Accordingly, it is **ORDERED** as follows:

1. Defendant's Amended Motion to Compel Better Responses to First Set of Discovery (Doc. No. 27) is **GRANTED**.
2. Within **fourteen (14) days** of this Order, Plaintiff shall serve on Defendant complete, sworn answers to Defendant's First Set of

Interrogatories, to include amended full and complete verified answers to Interrogatories numbers 1, 5, 7, 10 and 13. Plaintiff shall also supplement its responses to Requests for Production 1, 4, 5, 6, 7, 9, 10, 14, 23, 25, 26, and 28, and produce all documents in its current possession, custody, or control responsive to Defendant's First Request for Production. See Doc. Nos. 27-1, 27-2.

3. Defendant's Motion to Compel Responses to Second Set of Discovery (Doc. No. 28) is **GRANTED**.

4. Within **fourteen (14) days** of the date of this Order, Plaintiff shall serve on Defendant complete, sworn answers to Defendant's Second Set of Interrogatories. Plaintiff shall also fully respond to Defendant's Second Request for Production to Plaintiff, and produce all documents in its current possession, custody, or control responsive to Defendant's Second Request for Production. See Doc. No. 28-1.

5. All objections to the discovery at issue have been waived by the failure to timely respond to the motions 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).

6. Within **fourteen (14) days** of the date of this Order, Plaintiff and Defendant shall meet and confer in good faith to determine an amount of reasonable fees and expenses that should be awarded to Defendant for the filing of the present motions. By this same deadline, the parties shall file a joint notice of the amount agreed upon. If the parties are unable to reach an agreement by that time, within **seven (7) days** thereafter, Defendant shall file a motion, supported by appropriate documentation, for reasonable fees and expenses incurred in filing the present motions.

7. **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 July 10, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties