

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

HAYA DISTRIBUTION LLC,

Plaintiff,

v.

Case No.: 2:24-cv-639-JES-KCD

WESTCHESTER SURPLUS  
LINES INS. CO.,

Defendant.

\_\_\_\_\_ /

**ORDER**

Before the Court is Defendant's Motion to Compel Hurricane Ian Automatic Discovery. (Doc. 21.) Plaintiff responded, making this matter ripe. (Doc. 22.) For the reasons below, the motion is denied.

This is a Hurricane Ian case that is operating under a case management plan tailored to the circumstances of an insurance dispute. (Doc. 7 "Hurricane Ian Scheduling Order"). Defendant says that Plaintiff missed the deadline to provide the automatic discovery required under Section III of the Hurricane Ian Scheduling Order. (Doc. 21 at 2-3.)<sup>1</sup> The Federal Rules provide that a party may move for an order compelling compliance in such circumstances. *See* Fed. R. Civ. P. 37(a)(3), (b)(2)(A).

\_\_\_\_\_  
<sup>1</sup> The Court uses the CM/ECF pagination for Doc. 21.

Plaintiff responds that a review of its files took longer than anticipated, and that the discovery has been provided. (Doc. 22 at 1.) Because the discovery has been supplied, the request to compel is denied as moot.

One final issue. Arguing prejudice, Defendant requests exclusion of any evidence provided in the automatic discovery. (Doc. 21 at 4-5.) But Defendant includes no citation to authority besides Rule 37, or argument in support. (*Id.*) The Court therefore denies this request without prejudice. *See* Local Rule 3.01(a). In any event, discovery does not close until December, and extensions of time in hurricane cases are routinely granted. Thus, any prejudice can be remedied.

Accordingly, it is **ORDERED**:

Defendant's Motion to Compel Hurricane Ian Automatic Discovery (Doc. 21) is **DENIED**.

**ENTERED** in Fort Myers, Florida on September 17, 2024.

  
Kyle C. Dudek  
United States Magistrate Judge

Copies: All Parties of Record