

Plaintiff filed suit against Defendants on January 30, 2018. Plaintiff's First Request for Production was sent on June 11, 2018.¹ As of today, Defendant Mansur has failed to respond and produce requested documents.

ARGUMENT AND AUTHORITIES

The purpose of discovery is to seek the truth, so that disputes may be decided by what the facts reveal, not by what facts are concealed. *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 555 (Tex. 1990). Information is discoverable as long as it appears "reasonably calculated" to lead to the discovery of admissible evidence. TEX. R. CIV. P. 192.3; *Monsanto Co. v. May*, 889 S.W. 2d 274, 276 (Tex. 1994). The person resisting discovery has the burden to plead and prove that the request will impose an undue burden. *ISK Biotech Corp. v. Lindsay*, 933 S.W.2d 565, 568-69(Tex.App.—Amarillo 1996, orig. proceeding).

A. Defendant has not timely responded.

The responding party must serve a written response on the requesting party within 30 or 50 days after service of the request. TEX. R. CIV. P. 196.2; TEX. R. CIV. P. 197.2; TEX. R. CIV. P. 194.2. Plaintiff filed its Original Petition on January 30, 2018. On June 11, 2018, Plaintiff served Defendant with First Requests for Production.

As of the filing of this Motion, on January 2, 2019, well past Defendant's deadline to respond, Plaintiff has not received any responses from Defendant. Any objections to Plaintiff's requests Defendant may now try to make were waived long ago, and Defendant is required to provide the information requested.

¹ Exhibit A- Plaintiff's First Request for Production to Defendant Mansur.

No Rule 11 agreement to extend Defendant's time for answering was signed between Plaintiff and Defendant. Not only was no extension given by Plaintiff, Defendant did not even request an extension prior to his responses being due.

B. Defendants have waived their objections.

Defendant has waived his objections to Plaintiff's Requests. Under the Texas Rules, the party resisting discovery must state specifically the legal or factual basis for the objection and the extent to which the party is refusing to comply with the request. TEX. R. CIV. P. 193.2. An objection is **waived** if the party resisting discovery does not object **at or before the time to respond**. TEX. R. CIV. P. 193.2(e) (emphasis added). The "mandatory" rule applies unless one of three exceptions is met: (1) counsel has agreed to an extension; (2) the trial court by order has granted an extension; or (3) good cause for the late filing is shown. *Remington Arms Co. v. Canales*, 837 S.W.2d 624, 625 (Tex. 1992). It is well-established that "inadvertence of counsel does not constitute good cause." *Id.* Here, no extension was agreed to between the parties, the Court did not grant an extension, and there is no good cause for the late filing. The Court should strike any and all objections Defendant may attempt to make, and compel Defendants to **fully** respond to the Requests and produce responsive documents.

PRAYER

Wherefore, Plaintiff respectfully request that this Court GRANT Plaintiff's motion to compel Defendant's discovery responses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been duly served on all known counsel of record and pro se parties in accordance with the Texas Rules of Civil Procedure on January 2, 2019 as set forth below:

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