

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 13
	)	
MARY KAY PULLEN,	)	CASE NO. 10-82188 - MHM
	)	
Debtor.	)	
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MARY KAY PULLEN,	)	
	)	
Plaintiff,	)	
v.	)	ADVERSARY PROCEEDING
	)	NO. 10-6355
CAIN HARRIS,	)	
GARY C. HARRIS,	)	
	)	
Defendants.	)	

**ORDER REGARDING DEFENDANTS' MOTION TO COMPEL DISCOVERY**

Defendants filed a motion to compel discovery November 26, 2010 (Doc. No. 57). The motion is somewhat ambiguous as to whether Defendants assert that Plaintiff failed to respond to discovery or whether Plaintiff simply refused to *file* the discovery responses as had been demanded by Defendants.

BLR 7026-3 provides:

- (a) **Filing Not Generally Required.** Interrogatories, requests for documents, requests for admission, and answers and responses thereto shall be served upon other counsel or parties, but they shall not be routinely filed with the Bankruptcy Court. The party responsible for service of the discovery material shall, however, file a certificate with the Bankruptcy Clerk indicating the date of service. The party shall also retain the original discovery material and become its custodian. The original of all depositions upon oral examination shall be retained by the party taking the deposition.

**(b) Selective Filing Required for Motions, Trial, and Appeal.**


- (1) The custodial party shall file with the Bankruptcy Clerk at the time of use at trial or with the filing of a motion those portions of depositions, interrogatories, requests for documents, requests for admission and answers or responses thereto which are used at trial or which are necessary to the motion.
- (2) Where discovery materials not previously in the record are needed for appeal purposes, the Bankruptcy Court, upon application, may order or counsel may stipulate in writing that the necessary materials will be filed with the District Court Clerk.

Under the local rules, Defendants have no right to direct Plaintiff to *file* discovery responses, and additionally, Defendants should not *file* their discovery requests or their responses to Plaintiff's requests. Defendants have shown no reason for their demand that Plaintiff file her discovery responses. As set forth above, BLR 7026-3(b)(1) contemplates that the custodial party will file discovery responses *at the time* of use at trial or with the filing of a motion. Accordingly, it is hereby

ORDERED that, to the extent that Plaintiff has failed to respond to discovery requests of Defendants, Plaintiff is directed to provide those responses within 14 days of the date of entry of this order and to file a certificate of service of said responses. To the extent that Defendants seek an order directing Plaintiff to *file* all her discovery responses, Defendants' motion to compel is *denied*.

**The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Plaintiff's attorney, Defendant's attorney, and the Chapter 13 Trustee.**

IT IS SO ORDERED, this the 31<sup>st</sup> day of March, 2011.

  
MARGARETH. MURPHY  
UNITED STATES BANKRUPTCY JUDGE