

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PHH MORTGAGE CORPORATION
f/k/a CENDANT MORTGAGE CORP

V.

C.A. NO. 05-4177

LISA MITCHELL, BRENDA MITCHELL,
ET AL.

MEMORANDUM / ORDER

GOLDEN, J.

SEPTEMBER 26, 2006

Plaintiff brought this action against the Defendants asserting a federal RICO claim as well as state claims for fraud, civil conspiracy, conversion, and unjust enrichment. The claims arise out of an alleged scheme by the Defendants to divert through a series of wire transactions over \$800,000 from the Plaintiff. All of the defendants have defaulted with the exception of Lisa and Brenda Mitchell (the "Mitchell Defendants").

Having received no responses to its outstanding requests for responses to interrogatories and requests for production of documents from the Mitchell Defendants, Plaintiff, on June 23, 2006, filed a motion to compel responses to interrogatories and requests for

production from Defendants Lisa Mitchell and Brenda Mitchell. By Order entered June 27, 2006, the Court granted the motion in part and stated that “[d]efendants Lisa Mitchell and Brenda Mitchell shall respond fully and completely to the foregoing discovery within fourteen (14) days of the date of this Order, without objection, including serving any and all relevant documents on counsel for [Plaintiff].” The Mitchell Defendants failed to comply with the Court’s Order.

On August 2, 2006, Plaintiff filed a second motion to compel responses to interrogatories and for production of documents from the Mitchell Defendants. Once again, the Mitchell Defendants failed to comply.

As a result, on August 18, 2006, the Court issued a Rule on the Mitchell Defendants to show cause why judgment should not be entered in favor of the Plaintiff and against the Mitchell Defendants for failing to comply with Plaintiff’s outstanding discovery requests as well as with a Court Order. The Court scheduled a hearing on the Rule on August 29, 2006.

On August 21, 2006, Plaintiff filed a motion for summary judgment on all of its claims.

At the Rule to Show Cause hearing, counsel for the Mitchell Defendants could not produce a satisfactory explanation for failing to comply with Plaintiff’s discovery requests and a Court

Order.

Out of an abundance of leniency, the Court gave counsel one more opportunity and directed counsel for the Mitchell Defendants to respond to all of Plaintiff's outstanding discovery requests by no later than September 5, 2006. The Court also directed counsel to file a response to Plaintiff's motion for summary judgment by September 5, 2006.

On September 7, 2006, the Court received a letter from Plaintiff's counsel stating that although counsel received some original documents from the Mitchell Defendants, the documents did not include phone records for either defendant or complete tax records for Lisa Mitchell. Counsel also stated she received four floppy discs, the contents of which were inaccessible. Counsel further stated that phone messages she left for defense counsel to correct the omissions went unreturned.

To date, the Court has not received any correspondence from defense counsel in response to Plaintiff's September 7, 2006 letter. The docket reflects that the Mitchell Defendants have never filed a response to the Plaintiff's motion for summary judgment as ordered by the Court at the August 29, 2006 hearing.

In sum, the Mitchell Defendants have failed to respond to two motions to compel and have essentially ignored two Orders from this Court. The Court has given the Mitchell Defendants and their

counsel every opportunity to comply. The Court will not countenance any further disregard of its Orders. Accordingly, it is hereby

ORDERED that

1. The motion of the Plaintiff for summary judgment and the renewed motion of Plaintiff for summary judgment [Doc. ## 44,49] are GRANTED as unopposed.

2. Judgment is ENTERED in favor of Plaintiff and jointly and severally against Defendants Lisa and Brenda Mitchell in the amount of \$ 845,796.52.

3. Counsel for the Plaintiffs is DIRECTED to file for judgment by default against the remaining defendants by no later than October 5, 2006.

BY THE COURT:

THOMAS M. GOLDEN, J.

