

IN THE CIRCUIT COURT OF COLBERT COUNTY, ALABAMA

JOHN R. BENN,

*

Plaintiff,

*

v.

*

Case Number: CV-2002-184

ROBERT NOVAK,

*

Defendant.

*

SECOND MOTION FOR RULE 37(b) SANCTIONS

Comes now the Plaintiff, and moves the Court pursuant to the provisions of Rule 37 of the Alabama Rules of Civil Procedure for sanctions against Defendant Novak for his failure to sufficiently respond to discovery. In support of said Motion Plaintiff would show as follows:

1. That Plaintiff filed a Fourth Motion to Compel on or about January 7, 2003, involving Plaintiff's Third Interrogatories to Defendant.
2. That the Court, in response to said motion, entered an Order on January 9, 2003, requiring Defendant Novak to respond to Plaintiff's Interrogatories within ten (10) days.
3. That Defendant Novak has failed to respond to said Order.

Wherefore, Plaintiff prays that the Court enter an appropriate sanction as authorized under Rule 33(b)(2)(A) that Plaintiff has adequately established jurisdiction over Defendant Novak and/or other sanction, including entry of default, as permitted under Rule 33.

Further, Plaintiff prays that the Court will set this matter for a Hearing on
Thursday, February 6, 2003.

Date

John R. Benn BEN009/ASB-0868-B23J
Pro se
104 West Third Street
Sheffield, AL 35660
256-386-7685

CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that, prior to or immediately after filing the foregoing with the Court, I mailed U.S. Mail, postage prepaid, or delivered by hand a copy to:

Mr. Robert Novak
1550 Sunrise Highway
Copaigue, New York 11726

Date: _____

John R. Benn