UNITED STATES DISTRICT COURT

**FOR THE**

**DISTRICT OF MASSACHUSETTS**

Anne Anderson, et al.,

Plaintiffs,

Civil Action No. 82-1672-S

v.

Cryovac, Inc., et al.,

Defendants.

**MOTION TO COMPEL ANSWERS TO**

**INTERROGATORIES AND SANCTION FOR FAILING TO RESPOND TO DISCOVERY CONFERENCE**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff Anne Anderson requests this Court for an order compelling the Defendant W.R. Grace & Co.’s to answer the Second Set of Interrogatories. Furthermore, pursuant to the Local Rules of the United States District Court for The District of Massachusetts 37.1(A), proceedings, Plaintiff Anne Anderson moves to sanction Defendant W.R. Grace & Co.’s for failing to respond to a discovery conference within (7) days.

In support of this motion, Plaintiff states:

1. Under Rule 33(b) of the Federal Rules of Civil Procedure, Plaintiff’s answers to the Interrogatories are due within 30 days of service.

2. On April 20, 2011 Plaintiff Anne Anderson delivered a second set of interrogatories to Defendant W.R. Grace & Co.’s by mail.

3. The answers were due May 23, 2011, pursuant to computing and extending time under Federal Rules of Civil Procedure 6, 6(d), and 5(b)(2)(C).

4. On May 27, 2011, Attorneys for Plaintiff Anne Anderson phoned William Cheeseman Attorney for Defendant W.R. Grace & Co.’s. Mr. Cheeseman was notified that the Answers were four days late. Mr. Cheesman promise to have the Answers by June 3.

5. On June 6, three days after the second deadline promised by Mr. Cheesman, Plaintiff Anne Anderson called and left a message with Mr. Cheeseman. Mr. Cheeseman never returned the call.

6. On June 13, having received no response of any kind, a letter was sent to Mr. Cheeseman demanding Defendant W.R. Grace & Co.’s answer the Second Set of Interrogatories and informed Defendant W.R. Grace & Co.’s that we would file a motion to compel if we did not receive the answers by June 20. The June 13letter also formally requested a telephone conference under Local Rule 37.1(A).

7. As of the filing of this Motion, Defendant W.R. Grace & Co.’s has still not provided Plaintiff Anne Anderson with answers to the Second Set of Interrogatories. As of the filing of this Motion, Defendant has not replied to the telephone conference request.

8. As of today, June 24, 2011, it has been one month since the answers for the Second Set of Interrogatories were due.

9. Due to the impending trial date, it is imperative that Defendant W.R. Grace & Co.’s answer the Second Set of Interrogatories in a timely manner.

10. As of today, June 24, 2011 it has been 9 days since the request for telephone discovery conference was mailed to Defendant W.R. Grace & Co.’s.

11. Furthermore, Local Rules of the United States District Court for The District of Massachusetts 37.1(A) provides for sanctions opposing counsel fails to respond to a request for a telephone discovery conference within seven days.

Therefore, Plaintiff requests that the Court compel Defendant W.R. Grace & Co.’s to answer the Second Set of Interrogatories. Furthermore, Plaintiff requests the honorable Court to enter an Order pursuant Local Rules of the United States District Court for The District of Massachusetts 37.1(A) provides for sanctions Defendant W.R. Grace & Co.’s for failing to respond to a request for a telephone discovery conference within seven days. .

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

Counsel for Plaintiffs certifies that he has conferred with counsel for Defendant Beatrice Foods Co. and that they will not object to this motion. Counsel also certifies that he has attempted in good faith to resolve this issue with Defendant W.R. Grace & Co.; however, Defendant W.R. Grace & Co. has failed to respond to these issues.

Dated June 24, 2011

Respectfully submitted,

MACK & ASSOCIATES, LLC

/s/Earl McGowen .

Earl McGowen

Registration # 12345

Wolf Law

Boulder, CO 80309

earl.mcgowen@colorado.edu

555-555-5555

Attorneys for Plaintiff Anne Anderson

**CERTIFICATE OF SERVICE**

I certify that a copy of the above unopposed motion for extension of time was served by mail on June 24, 2011, on the following:

William Cheeseman, Esq.

Foley, Hoag & Eliot, LLP

Seaport World Trade Center West

155 Seaport Boulevard

Boston, MA 02210

Jerome Facher, Esq.

Hale and Dorr, LLP

60 State Street

Boston, MA 02109

/s/Earl McGowen .

Earl McGowen