

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Roger Down, et al. v. Robert Ray Holcomb, et al.

Down · No. 8:24-cv-2493-WFJ-AAS · Decided January 26, 2026

SUMMARY

The United States District Court for the Middle District of Florida grants in part and denies in part the plaintiffs’ motion for contempt and entry of clerk’s default. The court directs entry of default against Robert Ray Holcomb and Ellen Sue Holcomb for willful and bad-faith failures to comply with discovery orders, awards the plaintiffs attorney’s fees and costs, and denies civil contempt as unnecessary.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Amanda Arnold Sansone
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 26, 2026
DOCKET	8:24-cv-2493-WFJ-AAS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for contempt, entry of clerk's default, and attorney's fees and costs based on defendants' continued failure to comply with discovery orders. The district court granted entry of clerk's default and fees and costs, but denied civil contempt as unnecessary.
STANDARD OF REVIEW	The court applied the Eleventh Circuit standard for imposing clerk's default as a discovery sanction, requiring willful or bad-faith noncompliance, a determination that lesser sanctions would not serve the interests of justice, and compliance with Federal Rule of Civil Procedure 37(b)(2)(A)(vi).
PRECEDENTIAL VALUE	Unknown

PARTIES

Roger Down, Elizabeth Robinson, RHL Down Superannuation Fund, Tukibek Superannuation Fund, Timtash Pty. Ltd. v. Robert Ray Holcomb, Ellen Sue Holcomb

TOPICS

discovery dispute sanctions default attorney fees contempt

PRACTICE AREAS

civil procedure discovery sanctions contempt default attorney's fees

QUESTIONS PRESENTED

1. Whether defendants' repeated, willful, and bad-faith failure to comply with discovery orders warranted entry of clerk's default as a sanction.
2. Whether plaintiffs were entitled to attorney's fees and costs caused by defendants' discovery violations.
3. Whether a separate finding of civil contempt was necessary after entry of default and an award of fees and costs.

HOLDINGS

1. Clerk's default was appropriate because defendants repeatedly failed to comply with discovery orders, acted willfully and in bad faith, and made misrepresentations concerning the existence and availability of responsive materials.
2. Plaintiffs were entitled to attorney's fees and costs caused by defendants' willful and bad-faith failure to reasonably participate in discovery.
3. A separate finding of civil contempt was unnecessary because entry of clerk's default and an award of attorney's fees and costs provided the appropriate relief.

KEY QUOTATIONS

"with a complete production by November 7, 2025." (at 3)

"To the extent the production does not satisfy the court's discovery orders, the plaintiffs may file a motion for sanctions against Ms. Holcomb and Mr. Holcomb, individually, including a request for default judgment, if appropriate." (at 3)

"The request for a finding of civil contempt is DENIED as unnecessary due to the relief awarded in paragraphs (1) and (2)" (at 9)

FACTUAL BACKGROUND

Defendants repeatedly failed to provide adequate responses and responsive documents to plaintiffs' discovery requests despite a Rule 37 conference, a motion to compel, and multiple court orders extending discovery deadlines. Defendants continued to omit interrogatory responses and produced documents that the court found

nonresponsive, while asserting that the FBI had seized relevant records. The court found that assertion not made in good faith because defendants possessed or had access to additional responsive documents, including documents attached to their own filings and communications through their existing email accounts.

PROCEDURAL HISTORY

Plaintiffs filed the action on October 25, 2024. After defendants provided inadequate discovery responses and failed to comply with successive orders compelling discovery, plaintiffs moved for contempt and sanctions. Following a November 5, 2025 hearing and a further directive to complete production, defendants provided incomplete responses and documents. The court granted in part and denied in part plaintiffs' motion.

DISPOSITION

other

CASES CITED

- Sweeteners Plus, Inc. v. Glob. Supply Source, Inc., No. 11-1799, 2013 WL 5532670, at *2 (M.D. Fla. Oct. 7, 2013)
- Malautea v. Suzuki Motor Co. Ltd., 987 F.2d 1536 (11th Cir. 1993)
- Heald v. Hill-Rom Co., 105-187, 2006 WL 3747362, at *1 (S.D. Ga. Dec. 18, 2006)
- Zow v. Regions Fin. Corp., 595 F. App'x 887, 889 (11th Cir. 2014) (per curiam)
- Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989)
- Smith v. Atlanta Postal Credit Union, 350 F. App'x 347, 350 (11th Cir. 2009) (per curiam)