

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

**Shawna Gaboriault, on behalf of herself and all others similarly
situated v. Primmer, Piper, Eggleston, & Cramer, P.C., and John Does**

1 to 10

Gaboriault · No. 2:24-cv-113 · Decided June 4, 2026

SUMMARY

The United States District Court for the District of Vermont denied defendants’ motion to compel, motion for sanctions, and request for expenses in a putative class action arising from an alleged data breach. The court held that the plaintiff’s delayed discovery responses were substantially justified by agreed extensions and counsel’s illnesses, and that waiver of objections and an award of expenses were unwarranted.

CASE DETAILS

COURT	United States District Court for the District of Vermont
WRITING FOR THE COURT	William K. Sessions III
JURISDICTION	United States District Court for the District of Vermont
DECIDED	June 4, 2026
DOCKET	2:24-cv-113
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to compel discovery responses and sought sanctions, including waiver of objections and an award of expenses, under Federal Rule of Civil Procedure 37. Plaintiff served the outstanding discovery responses after the motion was filed and opposed sanctions and expenses.
STANDARD OF REVIEW	The court applied Federal Rule of Civil Procedure 37(a)(5)(A) to determine whether expenses were required and whether an exception applied, using an objective reasonableness standard for substantial justification. It applied Federal Rule of Civil Procedure 33(b)(4) to determine whether good cause excused untimely objections.
PRECEDENTIAL VALUE	unpublished

TOPICS

discovery dispute

sanctions

attorney fees

civil procedure

PRACTICE AREAS

civil procedure

discovery

sanctions

QUESTIONS PRESENTED

1. Whether plaintiff's service of discovery responses after defendants filed their motion to compel required an order compelling responses or otherwise left the motion subject to relief under Federal Rule of Civil Procedure 37(a)(5)(A).
2. Whether plaintiff's delayed discovery responses were substantially justified or whether other circumstances made an award of expenses unjust under Federal Rule of Civil Procedure 37(a)(5)(A).
3. Whether plaintiff's untimely discovery objections should be deemed waived under Federal Rule of Civil Procedure 33(b)(4).

HOLDINGS

1. Production of discovery after a motion to compel is filed does not moot the motion for purposes of determining expenses under Federal Rule of Civil Procedure 37(a)(5)(A).
2. The delayed production was substantially justified because much of the delay resulted from agreed extensions and counsel's unforeseen illnesses objectively justified the remaining delay or, at minimum, created a genuine dispute regarding its reasonableness.
3. An award of expenses and attorney's fees was not warranted because plaintiff's delay was substantially justified, an award would be unjust under the circumstances, and defendants suffered insufficient prejudice.
4. Plaintiff's untimely objections were not deemed waived because good cause excused the untimeliness under Federal Rule of Civil Procedure 33(b)(4).

KEY QUOTATIONS

"The Court finds that unforeseen illness constitutes an objectively reasonable justification for delayed production and, at the very least, creates a genuine dispute about whether counsel's delay during his illness was reasonable."

"The Court similarly finds that an award of fees and expenses under these circumstances would be unjust."

FACTUAL BACKGROUND

Defendants served their first set of interrogatories and requests for production on March 31, 2025. Discovery was delayed by a court-approved stay pending mediation, agreed extensions, plaintiff's lead counsel's trial schedule, and three illnesses affecting counsel in late March and April 2026. Defendants filed their motion to compel on April 17, 2026, after which plaintiff served responses before filing her opposition. The existing discovery and trial deadlines left several months for the parties to complete discovery, and the court found insufficient prejudice to defendants.

PROCEDURAL HISTORY

Plaintiff filed a putative class action concerning an alleged data breach. Defendants served interrogatories and requests for production, but responses were delayed during a court-approved stay for mediation, agreed extensions, counsel scheduling issues, and counsel's illnesses. After defendants filed the motion to compel, plaintiff served responses. The district court denied the motion to compel, the requests for sanctions, and the request for expenses.

DISPOSITION

other

CASES CITED

- Borne of N.Y. City, Inc. v. AmBase Corp., 161 F.R.D. 258, 262 (S.D.N.Y. 1995)
- Jundan Wu v. Seol Garden, Inc., No. 16 CV 3613, 2018 WL 507315, at *8 (E.D.N.Y. Jan. 22, 2018)
- Underdog Trucking, L.L.C. v. Verizon Servs. Corp., 273 F.R.D. 372, 377 (S.D.N.Y. 2011)
- Jackson v. Nassau Cnty., 350 F.R.D. 227, 233 (E.D.N.Y. 2025)
- Am. Stock Exch., LLC v. Mopex, Inc., 215 F.R.D. 87, 93 (S.D.N.Y. 2002)