

DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

|                                |   |                   |
|--------------------------------|---|-------------------|
| CHAPIN, ET AL.,                | ) |                   |
|                                | ) |                   |
| Plaintiffs,                    | ) |                   |
|                                | ) |                   |
| v.                             | ) | Civil No. 2012-77 |
|                                | ) |                   |
| GREAT SOUTHERN WOOD PRESERVING | ) |                   |
| INCORPORATED, ET AL.,          | ) |                   |
|                                | ) |                   |
| Defendants.                    | ) |                   |
|                                | ) |                   |

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**ORDER**

**GÓMEZ, J.**

Before the Court is the Magistrate Judge's March 9, 2016, order denying the plaintiffs' motion to compel Great Southern Wood Preserving, Inc. to produce certain discovery.

**I. FACTUAL AND PROCEDURAL HISTORY**

On October 26, 2015, the plaintiffs moved to compel Great Southern Wood Preserving, Inc. ("GSWP") to produce certain discovery. On March 9, 2016, the Magistrate Judge denied that motion. In the order denying the motion, the Magistrate Judge stated that the plaintiffs were not entitled to receive the requested discovery. The Magistrate Judge also stated that

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"GSWP . . . points out that plaintiffs failed to comply with the requirements of Local Rules of Civil Procedure 37.1 and 37.2. GSWP's Opp. at n. 1. In that event, the Court may not consider this discovery motion." (ECF No. 178, at 2 n.1.) Thereafter, on March 28, 2016, the plaintiffs filed an objection to the Magistrate Judge's order.

## **II. DISCUSSION**

Pursuant to Rule 72(a) of the Federal Rules of Civil Procedure, a party may seek review of a magistrate judge's non-dispositive order by filing objections to the order with this Court within fourteen days after being served with a copy of the order. Fed. R. Civ. P. 72(a). In reviewing a magistrate judge's order, a district court will modify or vacate any portion of the magistrate judge's order that is found to be "clearly erroneous or contrary to law." *Id.*; see also *Anthony ex rel. Lewis v. Abbott*, 289 F.Supp.2d 667, 671 (D.V.I.2003). A magistrate judge's order will be affirmed unless the Court is left with "the definite and firm conviction that a mistake has been committed." *Nicholas v. Wyndham Intern., Inc.*, 218 F.R.D. 122, 123 (D.V.I.2003) (citing *Harrison*, 200 F .R.D. at 513.).

## **III. ANALYSIS**

The plaintiffs argue that they are entitled to receive the discovery they requested. The plaintiffs do not, however,

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address their failure to comply with the District Court of the Virgin Island's Local Rules of Civil Procedure.

Local Rule of Civil Procedure 37.1 ("Local Rule 37.1") prescribes the actions that parties must engage in before seeking the Court's assistance with a discovery dispute. That rule provides that:

Prior to filing any motion relating to discovery pursuant to Federal Rules of Civil Procedure 26-37, other than a motion relating to depositions under Federal Rule of Civil Procedure 30, counsel for the parties shall confer in a good faith effort to eliminate the necessity for the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for this conference. To the extent practicable, counsel are encouraged to meet in person at a mutually convenient location. If, in the consideration of time and/or resources, counsel agree that meeting in person is not practicable, the conference may take place telephonically or electronically. Unless otherwise provided by stipulation or by written order of the Court, the conference shall be completed within thirty (30) calendar days after the moving party serves a letter requesting such conference. The moving party's letter shall identify each issue and/or discovery request in dispute, state briefly with respect to each the moving party's position (and provide any legal authority), and specify the terms of the discovery order to be sought.

LRCi 37.1.

In the event that the parties cannot resolve their discovery dispute after counsel confer as required by Local Rule 37.1, the parties may turn to the Court for

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assistance in accordance with Local Rule of Civil  
Procedure 37.2 ("Local Rule 37.2"). That rule, in  
pertinent part, provides that:

(a) STIPULATION. If counsel are unable to resolve all of their differences, they shall formulate and sign a written stipulation to that effect, expressly certifying their compliance with LRCi 37.1. The stipulation shall include the moving party's letter requesting a pre-filing conference of counsel and shall be filed and served with the motion.

LRCi 37.2(a).

Local Rule 37.2 also provides that:

[t]he Court will not consider any discovery motion in the absence of (1) the signed stipulation and certification required by LRCi 37.2(a), or (2) a declaration from counsel for the moving party establishing that opposing counsel:

(1) failed to confer in a timely manner after receipt of a letter requesting a conference under LRCi 37.1;  
or

(2) refused to sign the stipulation and certification required by LRCi 37.2(a).

LRCi 37.2(c).

Here, no stipulation or declaration was filed as required by Local Rule 37.2(c). Therefore, the Magistrate Judge's order was neither clearly erroneous nor contrary to law. Accordingly, the order will be affirmed.

The premises considered; it is hereby

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**ORDERED** that the Magistrate Judge's March 9, 2016,  
order denying the motion to compel is **AFFIRMED**.

S\ \_\_\_\_\_  
Curtis V. Gómez  
District Judge