

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

_____	:	
BAYLOR J MACDONALD	:	
	:	
Individually and on behalf of	:	
all others similarly situated,	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	Civil Action No. 04-CV-1010
NEW CENTURY FINANCIAL SERVICES, INC.	:	
	:	Class Action
and	:	
	:	Jury Trial Demanded
PRESSLER & PRESSLER, LLP	:	
	:	
Defendants	:	
_____	:	

ORDER

AND NOW, this ____ day of _____, 2004, upon consideration of the Motion to Compel filed by Plaintiffs, it is hereby ORDERED that Defendants Pressler & Pressler, LLP and New Century Financial Services, Inc. shall file full and complete answers to Plaintiffs' Request for Production of Documents, as well as provide Initial Disclosure pursuant to Federal Rule of Civil Procedure 26(a)(1) within twenty (20) days of the date of this Order or be subject to such sanctions as the Court might impose.

BY THE COURT

J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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PRESSLER & PRESSLER, LLP	:	
	:	
Defendants	:	
	:	

**MOTION TO COMPEL DEFENDANTS' ANSWERS TO PLAINTIFF'S
REQUEST FOR PRODUCTION OF DOCUMENTS AND INITIAL DISCLOSURE**

Plaintiffs, by and through counsel, Curtin & Heefner, LLP, hereby moves this Honorable Court to enter an appropriate Order against the Defendants, Pressler & Pressler, LLP and New Century Financial Services, Inc., pursuant to Rule 37 of the Federal Rules of Civil Procedure, and in support thereof aver as follows:

1. Plaintiffs' Complaint was filed March 8, 2004.
2. On May 21, 2004 Plaintiffs forwarded to Defendants Request for Production of Documents. See a copy of correspondence dated May 21, 2004 attached hereto as Exhibit "A" and incorporated herein by reference.

3. On June 24, 2004 Plaintiffs forwarded correspondence to Defendants' counsel requesting that they respond to Plaintiffs' Request for Production. See correspondence dated June 24, 2004 attached hereto as Exhibit "B" and incorporated herein by reference.

4. Defendants have not responded to Plaintiffs' correspondence of June 24, 2004.

5. A telephone message was left for Defendants' counsel regarding the outstanding requests; no return call has been received.

6. The information sought by these discovery requests is solely within the knowledge and control of the party to whom it is addressed and is essential to movants preparation for trial.

7. As of the filing of this Motion, Defendants have still not provided Plaintiffs with Initial Disclosure or response to Request for Production of Documents.

8. Due to the September 6, 2004 deadline for Plaintiffs to file a Motion to Certify, it is imperative that Defendants answer discovery and provide Initial Disclosure.

WHEREFORE, Plaintiffs, by and through counsel Curtin & Heefner, LLP, moves this Honorable Court to enter an Order pursuant to Rule 37 of the Federal Rules of Civil Procedure compelling Defendants to serve upon moving counsel Defendants' Initial Disclosure and full and complete answers to the aforementioned discovery requests within twenty (20) days or suffer such sanctions as the Court might impose.

Respectfully submitted,

CURTIN & HEEFNER, LLP

By: _____
Bonnie S. Stein, Esquire
Attorney for Plaintiffs

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NEW CENTURY FINANCIAL SERVICES, INC.	:	
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PRESSLER & PRESSLER, LLP	:	
	:	
Defendants	:	

BRIEF IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Plaintiffs bring this Motion to Compel Defendants' Responses to Plaintiffs' Request For Production of Documents and Initial Disclosure.

This action has been properly filed in this Honorable Court. Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, the parties must make initial disclosures within ten (10) days after the Pre-Trial Conference. Although there has been no Rule 16 Conference and there are no Scheduling Order in place, Plaintiffs served Initial Disclosure on May 11, 2004. To date, Defendants have not served their Initial Disclosure.

Pursuant to Rules 33(b)(3) and 34(b), respectively, of the Federal Rules of Civil Procedure, a party has 30 days to fully answer, respond or object to a discovery request. To date, Defendants have failed to produce any documents in response to Plaintiffs' Request for Production. Defendants have not objected to any discovery requests.

Therefore, based on the Federal Rules of Civil Procedure, Defendants have failed to provide the required and requested discovery in the prescribed time and Plaintiffs are entitled to make Motion to this Court for relief.

CURTIN & HEEFNER, LLP

By: _____
Bonnie S. Stein, Esquire
Attorneys for Plaintiffs

Date: _____

CERTIFICATION OF SERVICE

Bonnie S. Stein, Esquire hereby certifies that a copy of Plaintiffs' Motion to Compel Defendants' Responses to Plaintiffs' Request For Production of Documents and to provide Initial Disclosure, was mailed to counsel for Defendants, via U.S. Mail, on the date listed below, addressed as follows:

Edwin M. Matzkin, Esquire
The Pavilion, Suite 534
P.O. Box 626
Jenkintown, PA 19046

CURTIN & HEEFNER, LLP

By: _____
Bonnie S. Stein, Esquire
Attorney for Plaintiffs
Attorney I. D. # 54895

Dated: _____

**CERTIFICATION PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 37(a)(2)(A)and(B)**

Bonnie S. Stein, Esquire on behalf of Plaintiffs, states that she is acquainted with the facts set forth in the foregoing Motion to Compel Defendants' Responses to Defendant's Request For Production of Documents and to serve their Initial Disclosure; that said Motion is being made only after movant has, in good faith, conferred or attempted to confer with counsel for parties not making the disclosure and discovery in an effort to secure Defendants' responses to Request for Production, Initial Disclosure and material without court action.

Bonnie S. Stein, Esquire

Dated: _____