

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**NUBIA CARDENAS, individually and as** )  
**natural guardian of Leeyiceth Reyna, a minor,** )  
**and SOUTHWEST NATIONAL BANK, as** )  
**Conservator for Leeyiceth Reyna, a minor,** )

**Plaintiffs,** )

**v.** )

**DOREL JUVENILE GROUP, INC., DOREL** )  
**INDUSTRIES, INC., WAL-MART** )  
**STORES, INC.,** )

**Defendants.** )

**CIVIL ACTION**

**No. 04-2478-KHV**

**ORDER**

On August 31, 2005, United States Magistrate Judge David J. Waxse sustained in part plaintiffs' motion to compel discovery. See Memorandum And Order (Doc. #86). On October 13, 2005, Judge Waxse sustained plaintiffs' second motion to compel discovery. See Memorandum And Order (Doc. #98). As to both motions to compel, Judge Waxse sustained plaintiffs' request for sanctions in the form of an award of fees and expenses. This matter comes before the Court on Dorel Juvenile Group, Inc.'s Motion To Review Magistrate's Order Awarding Sanctions (Doc. #91) filed September 15, 2005 and Defendant Dorel Industries, Inc.'s Motion To Review Magistrate's Order Awarding Sanctions On Plaintiffs' Second Motion To Compel (Doc. #102) filed October 24, 2005.

A party may object to a magistrate judge's order pertaining to a discovery matter. See Fed. R. Civ. P. 72(a). Upon objection, the district court may "modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law." Fed.R.Civ.P. 72(a); see

28 U.S.C. § 636(b)(1)(A).

The magistrate judge awarded sanctions to plaintiffs under Fed. R. Civ. P. 37(a)(4)(C), which provides for an award of sanctions to the prevailing party unless the losing party had a “substantial justification” for the objections it made. In awarding sanctions, the magistrate judge found that a “significant number” of defendants’ objections were not substantially justified, but he did not identify *which* objections were not substantially justified. On this record, the Court cannot determine whether the magistrate judge’s findings were clearly erroneous or contrary to law.

**IT IS THEREFORE ORDERED** that this matter is **REMANDED** to United States Magistrate David J. Waxse. Judge Waxse is directed to identify the specific objections which he found were not substantially justified.

Dated this 14th day of November, 2005 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
UNITED STATES DISTRICT JUDGE