

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION

MARION WATERS, et al.,]	
]	
Plaintiffs,]	
]	
vs.]	2:07-CV-00394-LSC
]	
COOK'S PEST CONTROL, INC.,]	
]	
Defendant.]	

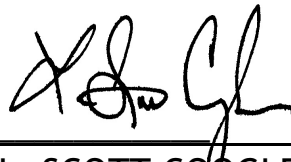
ORDER

The Court has for consideration Defendant’s motion for summary judgment, which was filed on June 5, 2008. (Doc. 38.) The parties have since argued whether discovery is necessary in this case, and the Court has heard argument on a motion to compel and a motion to stay discovery. The Court instructed the parties that it would consider only the standing issue raised in Defendant’s motion for summary judgment, and Plaintiff was directed to file a Rule 56(f) affidavit, if necessary, detailing the discovery he would need to oppose Defendant’s motion on that issue. Plaintiff initially filed a brief that was unresponsive to this Court’s directive. (Doc. 48.) Defendant’s motion to strike that brief is therefore GRANTED.

However, Plaintiff has since filed the requisite Rule 56(f) affidavit. (Doc. 58.) After full review, it is apparent that Plaintiff should have an opportunity to conduct discovery on the issues raised in the Rule 56(f) affidavit before this Court takes up the issue of Plaintiff's standing. Therefore, Defendant's motion for summary judgment is DENIED, without prejudice to refile, if appropriate, at a later date.

The parties are also DIRECTED to file a proposed modified scheduling order within eleven (11) days of this Order.

Done this 9th day of December 2008.



L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE
139297