

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NU-YOU TECHNOLOGIES, LLC,

Plaintiff,

v.

YOUSSEFF ELTOWEISSY,
et al.,

Defendants.

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Civil Action No. 3:15-CV-03434-N

ORDER

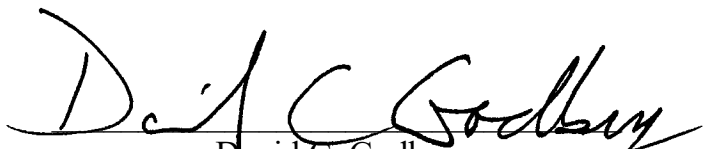
This Order addresses Plaintiff Nu-You Technologies, LLC’s (“Nu-You”) motion for attorney’s fees [43]. Nu-You seeks \$4,481.25 to compensate for attorney’s fees incurred responding to Defendants Yousseff Eltoweissy and Diamond Cuts Barber Studio LLC’s motion for a protective order [33].

Under the Federal Rules of Civil Procedure, when a motion for a protective order is denied, reasonable expenses must be awarded to cover costs incurred in opposing the motion. *See* FED. R. CIV. P. 26(c)(3) (“Rule 37(a)(5) applies to the award of expenses.”); FED. R. CIV. P. 37(a)(5)(B) (“If the motion is denied, the court . . . must, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party or deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorney’s fees.”). The Court cannot “order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.” FED. R. CIV. P. 37(a)(5)(B). In this case, the Defendants’ motion for a protective order sought to stay the

case until the Court ruled on the Defendants' pending motion to dismiss. Courts have repeatedly rejected this argument. *See, e.g., Glazer's Wholesale Drug Co. v. Klein Foods, Inc.*, 2008 WL 2930482, at *1 (N.D. Tex. 2008) ("The court declines to stay discovery merely because defendant believes it will prevail on its motion to dismiss."); *Ford Motor Co. v. U.S. Auto Club, Motoring Div., Inc.*, 2008 WL 2038887, at *1 (N.D. 2008) ("such a stay is the exception rather than the rule"). Nor do the Defendants offer a compelling argument to the contrary. Thus, the Court finds that the Defendants' motion for a protective order was not substantially justified.

Accordingly, the Court grants the motion and awards Nu-You \$4,481.25 in attorney's fees, which the Court finds to be reasonable and necessary, to be paid within thirty (30) days of the date of this Order.

Signed September 27, 2016.


David C. Godbey
United States District Judge