

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**ARNELL NIGHTINGALE**

**PLAINTIFF**

**VS.**

**NO. 3:09CV00166**

**SAFECO INSURANCE COMPANY OF AMERICA**

**DEFENDANT**

**ORDER**

Pending is Defendant's motion to dismiss. (Docket # 14). Defendant asks the Court to dismiss Plaintiff's complaint pursuant to Fed. R. Civ. P. 37(b)(2)(A)(iii) and (v) based on Plaintiff's failure to provide full and complete discovery responses as ordered by the Court on March 17, 2010.<sup>1</sup>

The Court has reviewed the responses provided by Plaintiff and finds that Plaintiff has abused the discovery process without justification.<sup>2</sup> Plaintiff will be precluded from presenting at trial any medical evidence not provided in the Plaintiff's original Rule 26 disclosures. Further, Plaintiff is directed to provide addresses and contact information for all medical care providers and all witnesses identified in the discovery responses. The Court will allow an extension of the discovery deadline sufficient to complete the depositions of these individuals. Plaintiff is directed to appear for a deposition at a place and time designated by the Defendant within three weeks of the entry of this Order. Plaintiff is cautioned that failure to so appear could result in the dismissal of the complaint.

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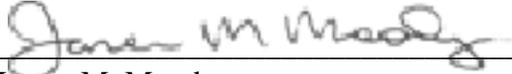
<sup>1</sup>The Court's Order required Plaintiff to produce "full and complete responses to the outstanding discovery requests within fifteen (15) days of the entry" of the Order.

<sup>2</sup>Although Plaintiff provided responses to the outstanding discovery requests within the time allowed by the Court, the responses were incomplete and wholly inadequate.

The Court will award Defendant reasonable expenses, including attorneys fees, caused by Plaintiff's failure to provide full and complete responses to the discovery requests as ordered by the Court. Defendant is directed to submit a motion for expenses with an affidavit of counsel setting forth the expenses claimed.

Accordingly, Defendant's motion to dismiss is denied, however, sanctions as set forth herein will be imposed.

IT IS SO ORDERED this 8<sup>th</sup> day of April, 2010.

  
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James M. Moody  
United States District Judge