

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

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

PETITIONER

v.

Case No. 3:10-mc-4-DPM

**OSCEOLA NURSING HOME LLP
d/b/a OSCEOLA HEALTHCARE**

RESPONDENT

ORDER

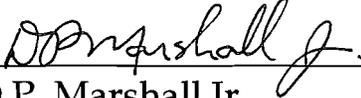
For the reasons stated on the record at the end of the 8 March 2011 hearing, the Court declines to draw an adverse inference based on Respondent Osceola Nursing Home LLP's incomplete and tardy response to the EEOC's July 2010 subpoena. The spoliation/adverse-inference issue, however, may be revisited at the end of any trial based on a more complete record.

For the reasons stated from the bench, the Court also concludes that Respondent's unresponsive conduct nonetheless merits a sanction pursuant to the Court's inherent authority to protect and promote respect for the judicial and administrative processes. The Court therefore orders Respondent Osceola Nursing Home LLP to take the following actions by 11 April 2011:

- Pay Petitioner EEOC \$2,500.00 for having to seek judicial enforcement of the subpoena;
- Provide the EEOC a complete copy of the Memphis law firm's harassment-investigation file with privileged or work-product redacted; and
- Make further good-faith efforts to locate documents responsive to the subpoena by reviewing all facility files in the new owner's possession at the facility (including the storage building) and at the facility's mini-storage, and then provide all responsive documents found to the EEOC.

Respondent shall certify compliance with this Order by 11 April 2011. Any failure to comply will put Respondent in jeopardy of more sanctions.

So Ordered.



D.P. Marshall Jr.
United States District Judge



9 March 2011