

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

CRYSTAL Y. FOWLKES

PLAINTIFF

vs.

Case No. 4:08-CV-4161 BSM

CRYE-LEIKE, INC.;
CRYE-LEIKE OF ARKANSAS, INC.

DEFENDANTS

ORDER

Defendants, Crye-Leike, Inc. and Crye-Leike of Arkansas, Inc., move for sanctions and attorney's fees (Doc. No. 42) against plaintiff Crystal Y. Fowlkes and she not only objects, but also seeks sanctions and attorney's fees against defendants (Doc. No. 66). For the reasons set forth below, both motions are denied.

Fowlkes filed suit against defendants on November 18, 2008, claiming defendants fired her because she was a black female. During her December 17, 2009 deposition, however, plaintiff stated that she did not return to work after taking maternity leave. Deposition of Crystal Y. Fowlkes, attached at Exhibit 2 to defendants' statement of facts (Doc. No. 54). The same day that she was deposed, plaintiff amended her complaint and again asserted that defendants fired her (Doc. No. 19).

In a letter dated December 22, 2009, defense counsel notified plaintiff's counsel that a Rule 11 sanctions motion would be filed if plaintiff failed to dismiss her complaint. Letter attached at Exhibit A, plaintiff's brief in support of response to motion for sanctions and counter-motion for sanctions (Doc. No. 67) ("Pltf.'s resp."). Plaintiff, however, did not dismiss her complaint.

Defendants moved for sanctions on February 11, 2010 and on March 4, 2010, plaintiff countered with her own motion for sanctions. The underlying case was dismissed with prejudice on March 16, 2010 when summary judgment was granted for defendants. In that the case has been dismissed, both motions for sanctions are denied. Any attorney's fees and expenses sought by defendants can be requested by filing the appropriate petition.

Accordingly, defendants' motion and plaintiff's cross-motion for sanctions and attorney's fees (Doc. Nos. 42, 66) are denied.

IT IS SO ORDERED this 18th day of March, 2010.


UNITED STATES DISTRICT JUDGE