

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

PAMELA E. SMITH individually,

Plaintiff,

-vs-

Case No. 2:09-cv-512-FtM-29SPC

ARROW FINANCIAL SERVICES, LLC a foreign  
limited liability company; THE LAW OFFICES OF  
ERSKINE & FLEISHER a Florida partnership,

Defendants.

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**ORDER**

This matter comes before the Court on Motion by Defendant The Law Offices of Erskine & Fleisher for Sanctions for Plaintiff's Failure to Comply with Court Order Regarding Production of Handwritten Notes (Doc. #44) filed on September 10, 2010. Plaintiff Pamela E. Smith filed a Response (Doc. #51) on September 17, 2010. The motion is now ripe for review.

On August 17, 2010, this Court entered an Order directing Plaintiff to produce any previously unproduced handwritten documents or notes in her possession, custody, or control, or provide a sworn or verified statement that no such notes exist (Doc. #43). The Order required that the notes or statement be produced no later than August 31, 2010. Plaintiff, however, provided neither the notes nor a statement by this date. The instant Motion for sanctions pursuant to Federal Rule 37(b)(2) followed.

In Plaintiff's response, she states that she did not provide the notes or sworn statement by August 31, 2010, because she was confirming with other sources that the notes did not exist. Plaintiff's response includes an affidavit signed by Plaintiff, which states that no such handwritten

notes exist. Since the Court finds that Plaintiff has shown good cause for her delay, Defendant's Motion for Sanctions is due to be denied.

Accordingly, it is now

**ORDERED:**

Motion by Defendant The Law Offices of Erskine & Fleisher for Sanctions for Plaintiff's Failure to Comply with Court Order Regarding Production of Handwritten Notes (Doc. #44) is **DENIED.**

**DONE AND ORDERED** at Fort Myers, Florida, this 20th day of September, 2010.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES MAGISTRATE JUDGE**

Copies: All Parties of Record