

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 08-CV-61430-UNGARO/SIMONTON

ALLISON SMITH, individually and on
behalf of all others similarly situated,
Plaintiffs,

v.

MY THREE BLONDE INVESTMENTS,
INC., a Florida corporation,
Defendant,

ORDER OF DISMISSAL

THIS CAUSE came before the Court upon a *sua sponte* review of the file.

THIS COURT has considered the pertinent portions of the record and is otherwise fully advised in the premises.

On October 6, 2008, this Court entered an Scheduling Order requiring the parties to file a Joint Scheduling Report and Proposed Scheduling Order by November 21, 2008. (D.E. 8.) The parties failed to comply with the Order and no Joint Scheduling Report was filed.. Then, on November 25, 2008, this Court entered an Order requiring Plaintiff to show cause on or before noon on November 26, 2008, “why this matter should not be dismissed for failure to file a timely Joint Planning and Scheduling Report.” (D.E. 16.) Plaintiff was further advised that the failure to comply with this Order would result in dismissal without further notice. (D.E. 16.) Plaintiff failed to comply with any of this Orders.

Incident to a district court’s inherent power to police its docket, a district court judge may impose formal sanctions on litigants ranging from reprimands to dismissal. *See* Fed. R. Civ. P. 41(b); *Mingo v. Sugar Cane Growers Co-op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989). When

implementing dismissal, however, the Court must find (1) that the party engaged in a clear pattern of delay or willful contempt; and (2) that lesser sanctions would not suffice. *See Kilgo v. Ricks*, 983 F.2d 189 (11th Cir. 1993).

In light of Plaintiff's repeated failure to comply with this Court's Orders in this case, the Court finds that Plaintiff has willfully disobeyed the Court's Orders notwithstanding the Court's warning that dismissal would result in the absence of compliance. The undersigned therefore finds that no sanction short of dismissal would adequately address the Plaintiff's pattern of noncompliance with this Court's Orders. Accordingly, it is hereby

ORDERED AND ADJUDGED that this matter is DISMISSED WITHOUT PREJUDICE for Plaintiff's willful failure to comply with this Court's Orders of October 6, 2008, and November 25, 2008.

DONE AND ORDERED in Chambers at Miami, Florida, this 1st day of December, 2008.



URSULA UNGARO
UNITED STATES DISTRICT JUDGE

copies provided:
Counsel of Record