

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|----------------------|---|-------------------|
| EVELYN YANIRA NOVOA, |) | 4:10CV3044 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| NELNET, Inc., |) | |
| |) | |
| Defendant. |) | |

This matter is before the court on its own motion. On October 15, 2010, the court directed Plaintiff to show cause why this case should not be dismissed for want of prosecution and for failing to keep the court apprised of her whereabouts. (Filing No. [15](#).) On October 25, 2010, Plaintiff responded by filing a Motion to Extend. (Filing No. [16](#).) In this Motion, Plaintiff states that she missed the Pretrial Conference in this matter because the “mail didn’t come on time” and she “didn’t know about” it. (*Id.* at CM/ECF p. 1.) Plaintiff is currently volunteering in El Paso, Texas, and has provided the court with a temporary address. (*Id.*)

On April 2, 2010, the court warned Plaintiff that her case could be dismissed if she failed to keep the court informed of her current address “at all times while this case is pending.” (Filing No. [6](#) at CM/ECF pp. 5-6.) Plaintiff clearly has access to the postal service and is receiving mail sent to her former address because she responded to the court’s October 15, 2010, Memorandum and Order. However, Plaintiff fails to adequately explain why she did not keep the court informed of her current address or why she failed to show up for the Pretrial Conference. The court’s records show that the Clerk of the court mailed a copy of the Progression Order in this matter to Plaintiff on May 17, 2010. (Filing No. [12](#); *see also* Docket Sheet.) This Progression Order informed Plaintiff that the Pretrial Conference was scheduled for October 15, 2010. (Filing No. [12](#) at CM/ECF p. 3.) Even taking potential mail delays into account, Plaintiff should have received a copy of the Progression Order well

before the October 15, 2010, Pretrial Conference date. Yet, Plaintiff failed to inform the court that she would be in El Paso and failed to make alternative arrangements for the Pretrial Conference. Moreover, Plaintiff repeatedly failed to respond to Defendant's counsel's attempts to reach her. (Filing Nos. [14](#) and [17](#).) In short, Plaintiff has failed to prosecute this matter diligently and failed to show good cause for doing so.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice because Plaintiff failed to prosecute this matter diligently and failed to comply with this court's orders.
2. Plaintiff's Motion to Extend (filing no. [16](#)) is denied.
3. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 17th day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.