

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MELANIE DAVIS,

Plaintiff,

vs.

AK-SAR-BEN VILLAGE, L.L.C,

Defendant.

8:18CV101

ORDER

Defendant Ak-Sar-Ben Village, L.L.C., has filed a motion for sanctions, to include dismissal of the above-captioned action, for Plaintiff's repeated failure to comply with Court ordered discovery. [Filing No. 103](#). Before the Court is the Findings and Recommendation ("F&R") of United States Magistrate Judge Zwart, [Filing No. 106](#). No objection has been filed to the F&R. Pursuant to [NECivR 72.3](#) and [28 U.S.C. § 636\(b\)\(1\)\(C\)](#), the Court has carefully conducted a *de novo* review of the record.

A district court reviews *de novo* those portions of a magistrate's order that are objected to by a party. [Grinder v. Gammon, 73 F.3d 793, 792 \(8th Cir. 1996\)](#). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). A district court may reconsider a magistrate judge's ruling where it has been shown that the ruling is clearly erroneous or contrary to law. [Ferguson v. United States, 484 F.3d 1068, 1076 \(8th Cir. 2007\)](#) (citing 28 U.S.C. § 636(b)(1)(A)).

The Court has carefully reviewed the findings and recommendation of the magistrate order. The Court concludes that the magistrate's determinations are correct

as a matter of law and fact and not clearly erroneous. The Court will adopt the F&R in its entirety.

THEREFORE, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation of the magistrate judge, [Filing No. 106](#), is adopted in its entirety.
2. The Defendant's Second Motion for [Fed. R. Civ. P. 37](#) relief, [Filing No. 103](#), is granted.
3. This case is dismissed pursuant to [Fed. R. Civ. P. 37\(b\)\(2\)\(A\)\(v\)](#).
4. A separate judgment will be entered in accordance with this Order.

Dated this 18th day of September, 2020.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge