

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SHEILA HURLEY,

Plaintiff,

v.

Civ. No. 20-850 KG/GBW

STEPHANIE A. FUCHS, *et al.*,

Defendants.

ORDER VACATING SETTLEMENT CONFERENCE AND TO SHOW CAUSE

THIS MATTER comes before the Court upon review of Defendants' Motion to Vacate Settlement Conference (*doc. 33*), the Court's Order Setting Expedited Briefing Schedule (*doc. 34*), and Defendants' Notice Regarding Settlement Letter (*doc. 35*). Having reviewed the Motion, noting Plaintiff's failure to respond by the Court's expedited deadline, and being fully advised in the premises, the Court GRANTS the Motion, VACATES the settlement conference, and ORDERS Plaintiff to show cause for her purported violation of the Court's Order Setting Settlement Conference.

On May 3, 2022, Defendants requested the Court to vacate the settlement conference set for May 20, 2022, due to Plaintiff's alleged failures to serve her demand letter upon Defendants at least 21 days prior to the date of the settlement conference in accordance with the Court's Order Setting Settlement Conference (*doc. 29*) and respond to discovery requests served on February 18, 2022. *Doc. 33*. Because Plaintiff opposed

the Motion, *see id.* at ¶ 8, the Court ordered her to respond to Defendants’ Motion by May 5, 2022.¹ *Doc.* 34. To date, Plaintiff has not filed a response. Her failure to do so by the Court’s May 5, 2022, deadline “constitutes consent to grant [Defendants’] motion.” *See* D.N.M.LR-Civ. 7.1(b).

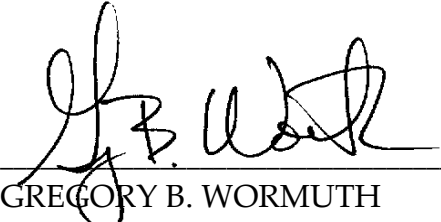
Additionally, the Court’s Order Setting Settlement Conference required Plaintiff to serve a demand letter on Defendants at least 21 calendar days before prior to the date of the settlement conference, *i.e.*, no later than April 29, 2022. *Doc.* 29 at 2. It also warned her that it would impose a \$100 fine for each day a party misses a deadline for sending its demand letter to the other side. *Id.* at 4. Defendants’ Motion to Vacate Settlement Conference asserts that Plaintiff failed to serve them with her demand letter by the April 29, 2022, deadline. *See doc.* 33 at ¶ 3. It also states that Plaintiff represented that she would submit her settlement conference demand letter on May 6, 2022. *Id.* ¶ 5. Defendants’ Notice Regarding Settlement Letter—filed on May 6, 2022—indicates that Plaintiff failed to provide her settlement conference demand letter to Defendants by that date. *See doc.* 35 at ¶ 2.

IT IS ORDERED that the settlement conference set for May 20, 2022, is VACATED due to Plaintiff’s failure to serve Defendants with her demand letter by the Court’s deadline. IT IS ADDITIONALLY ORDERED that Plaintiff shall show cause in writing **within seven (7) days of the issuance of this Order** why the Court should not

¹ Plaintiff received service of this Order on May 4, 2022, via email. *See doc.* 4.

impose sanctions against her for failing to serve Defendants with her demand letter by the April 29, 2022, deadline.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE