

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DR. DENISE GATES,

Plaintiff,

v.

GLORIA ANN PARRISH,

Defendant.

Case No. 2:08-cv-27

JUDGE GREGORY L. FROST

Magistrate Judge Mark R. Abel

OPINION AND ORDER

This matter is before the Court for consideration of the parties' failure to appear at the final pretrial conference, Defendant's motion to dismiss (Doc. # 140), Plaintiff's memorandum in opposition to Defendant's motion to dismiss (Doc. # 143), and Plaintiff's motion to compel and for sanctions (Doc. # 142).

I. Motions

A. Defendant's Motion to Dismiss

In Defendant's motion to dismiss, she requests dismissal of this action for Plaintiff's failure to comply with an order of this Court that required her to answer Defendant's interrogatories. In her memorandum in opposition, Plaintiff does not deny that she is in violation of this Court's Order. Instead, Plaintiff asserts that Defendant failed to respond to any of Plaintiff's discovery requests. Apparently, Plaintiff is arguing that because Defendant has not properly responded to her discovery requests Plaintiff need not comply with this Court's Order. Plaintiff is mistaken. The conduct of Defendant does not exempt Plaintiff from complying with

an order of this Court.

The Court, however, declines to dismiss this action at the instant juncture and therefore, **DENIES** Defendant's motion to dismiss. The Court **ORDERS** Plaintiff to respond to Defendant's interrogatories within 10 days of the date of this Opinion and Order and to **FILE NOTICE** of her compliance with this Court at that same time. Failure to comply with these orders may result in sanctions up to and including dismissal of this action.

B. Plaintiff's Motion to Compel and Sanction Defendant

In Plaintiff's motion, she requests that the Court compel Defendant to respond to Plaintiff's discovery requests and also to sanction Defendant for failure to timely respond to these requests. The Court **GRANTS** Plaintiff's motion in regards to its request for discovery and **DENIES** the motion in regards to its request for sanctions. The Court **ORDERS** Defendant to respond to the discovery requests within 10 days of the date of this Opinion and Order and to **FILE NOTICE** of her compliance with this Court at that same time. Failure to comply with these orders may result in sanctions.

II. Final Pretrial Conference

A final pretrial conference was scheduled to be held in this action on January 5, 2010 at 12:30 p.m. Neither party appeared at the conference nor contacted the Court to attempt to vacate the conference. The Court **RESCHEDULES** the final pretrial conference for January 27, 2010, at 12:00 p.m. Failure to appear at this conference may result in sanctions up to and including dismissal.

III. Conclusion

Based on the foregoing, the Court **DENIES** Defendant's motion to dismiss (Doc. # 140),

GRANTS in part and DENIES in part Plaintiff's motion to compel and for sanctions (Doc. # 142), and **RESCHEDULES** the final pretrial conference for January 27, 2010, at 12:00 p.m.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE