

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KALA UNDERWOOD,

Plaintiff,

:

Case No. 3:09-cv-083

-vs-

:

Magistrate Judge Michael R. Merz

MONTGOMERY COUNTY, OHIO, et al.,

Defendants.

SECOND NOTICE TO PLAINTIFF

This case is before the Court upon Defendants' Motion for Sanctions (Doc. No. 17) which requests that this case be dismissed for failure to provide discovery.

The Scheduling Order entered in this case required Plaintiff to file a list of her lay witnesses not later than December 15, 2009 (Order, Doc. No. 15). No such list has been filed. As Defendants note, in the absence of such a list, they are unable to depose witnesses, and the discovery deadline in this case is April 15, 2010. In the absence of identifying a witness, Plaintiff could not present that person's testimony at trial.

On April 6, 2010, the Court ORDERED that Plaintiff show cause not later than April 15, 2010, why this Court should not grant the Motion for Sanctions, including dismissing the case with prejudice (Doc. No. 18). That Notice was mailed to Plaintiff at the only address she has ever provided the Court, 3561 Valencia Drive. The Postal Service has returned that Notice with the handwritten legend "not at this address" and the printed legend "Notify Sender of New Address." It is accordingly ORDERED that:

1. The Clerk enter the address of 7613 Berchman Drive, Dayton, Ohio 45424-2110 on the docket as an alternative address for the Plaintiff;
2. The Clerk send copies of this Second Notice to Plaintiff to both addresses;
3. Plaintiff show cause not later than April 30, 2010, why this Court should not grant the Motion

for Sanctions, including dismissing the case with prejudice and advise the Court of her correct address for all further proceedings.

April 19, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge