## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

KAYLON CARPENTER,	)	
Plaintiff,	)	
	)	No.
V.	)	
	)	JUR
LANE COLLEGE AND	)	
WILLIAM SMITH III,	)	
	)	
Defendants.	)	

No. 2:17-cv-02672-TLP-cgc

JURY DEMAND

## ORDER DENYING DEFENDANTS' MOTION TO DISMISS FOR LACK OF PROSECUTION

Defendants, Lane College and William Smith, III, move this Court to dismiss the case due to Plaintiff's lack of prosecution. (ECF No. 24). The Court held a Show Cause Hearing as to why this Motion should not be granted, and Plaintiff's counsel, Terrell Tooten, appeared on behalf of Plaintiff. Mr. Tooten advised the Court that he neglected to respond to the counsel for Defendants' request for deposition dates and he admitted that neither he nor his clients appeared for those depositions.

Mr. Tooten suggested that, rather than dismissing the case, the Court should allow the parties to resume the depositions of Plaintiff and her mother with Mr. Tooten paying the costs.

The Court finds that Mr. Tooten's solution is adequate to address this matter. It would be unfair to penalize Plaintiff directly for the actions or inactions of her lawyer in this context. Therefore, the Court will DENY Defendants' Motion to Dismiss for Lack of Prosecution. However, the Court will ORDER that Plaintiff's counsel, Terrell Tooten, is responsible for payment of the costs associated with the deposition of Plaintiff and her mother, which took place on August 16, 2018, at the offices of Defense counsel. Any additional requests for sanctions by Defendants are DENIED.

SO ORDERED, this 22nd day of August, 2018.

s/Thomas L. Parker THOMAS L. PARKER UNITED STATES DISTRICT JUDGE