

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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BRYAN F. OPARKA,

Plaintiff,

v.

UNIFIED BUILDING SYSTEMS/MANAGEMENT CO.,

Defendant.

ORDER

09-cv-475-slc

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Plaintiff filed this lawsuit alleging gender discrimination over a year ago, on July 29, 2009. On June 1, 2010, this court ordered plaintiff to show cause why his lawsuit should not be dismissed pursuant to F.R. Civ. Pro. 37(b)(2)(A) for failure to obey this court's May 14, 2010 order that plaintiff immediately provide all discovery requested of him in January.

In that order, I explained to plaintiff how inadequate and inappropriate his conduct had been during the discovery phase of his lawsuit. Further, I told him that his failure to obey this court's order that he immediately provide defendant with the requested discovery subjected him to severe sanctions pursuant to Rule 37(b)(2)(A). In his response to my order, plaintiff conceded that his conduct had been inappropriate, but that he was now able to focus fully on his case. Defendant replied that plaintiff *still* had not produced the requested discovery and that the case should be dismissed.

Neither the court nor the parties took any further action until August 31, 2010 when defendant filed a motion to dismiss plaintiff's complaint with prejudice or in the alternative a motion to compel discovery. Plaintiff did not respond in any fashion to this motion, which leads the court to conclude that he has lost interest in his lawsuit and no longer wishes to prosecute it. In addition, plaintiff has failed to comply with this court's order to produce discovery and has not yet produced the requested discovery.

Therefore, I am dismissing his case with prejudice for his failure to prosecute it under F. R. Civ. Pro 41(b). Because defendant's motion to dismiss the entire case does not address its counterclaim, the counterclaim does not survive this dismissal.

ORDER

IT IS ORDERED that this case is DISMISSED with prejudice for plaintiff Brian Oparka's failure to prosecute it.

Entered this 23<sup>rd</sup> day of September, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge