

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

JULIA A. MILES,

Plaintiff,

vs.

Case No. 04-4141-SAC

SOUTHWESTERN BELL TELEPHONE, L.P.,

Defendant.

**ORDER GRANTING DEFENDANT’S MOTION TO COMPEL**

This matter comes before the court upon the motion of Defendant Southwestern Bell Telephone, L.P., to compel Plaintiff to provide responses to Defendant’s First Interrogatories and First Requests for Production (Doc. 22). Plaintiff has not filed any response to Defendant’s motion and the time to do so has now expired.<sup>1</sup> Pursuant to D. Kan. Rule 7.4, the court ordinarily treats a motion, to which no timely response is filed, as uncontested and grants the motion without any further notice.<sup>2</sup> The court has reviewed Defendant’s motion and is now prepared to rule.

In support of said motion to compel, Defendant shows the court that First Interrogatories and

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<sup>1</sup> See D. Kan. Rule 6.1(d) (“Responses to non-dispositive motions. . . shall be filed and served within 14 days.”).

<sup>2</sup> D. Kan Rule 7.4 provides in relevant part:

The failure to file a brief or response within the time specified within Rule 6.1(d) shall constitute a waiver of the right thereafter to file such a brief or response, except upon a showing of excusable neglect. . . . If a respondent fails to file a response within the time required by Rule 6.1(d), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

First Requests for Production were served on July 28, 2005. The statutory time for responding has elapsed. Additionally, Defendant reports sending correspondence to Plaintiff's counsel regarding Plaintiff's need to provide responses, without any response or result.

Plaintiff has failed to timely respond to Defendant's motion to compel. As a result, the court is left without any explanation for Plaintiff's failure to respond to the First Interrogatories and First Requests for Production and can only conclude that Plaintiff is in violation of the Scheduling Order and Fed. R. Civ. P. 33 and 34. As such, the court will grant Defendant's motion to compel (Doc. 22) and order Plaintiff to fully and completely respond to Defendant's First Interrogatories and Defendant's First Requests for Production on or before **October 12, 2005**. Plaintiff and her counsel are warned that failure to comply with this order will likely result in the imposition of stern sanctions, including, but not limited to, an award of attorneys fees and dismissal of the case with prejudice.

**IT IS THEREFORE ORDERED** that the Defendant's Motion to Compel (Doc. 22) is hereby granted.

**IT IS FURTHER ORDERED** that Plaintiff shall, on or before **October 12, 2005**, provide full and complete responses to all of Defendant's outstanding discovery requests, including its First Interrogatories and First Requests for Production.

**IT IS SO ORDERED.**

Dated this 28th day of September, 2005, at Topeka, Kansas.

s/K. Gary Sebelius  
K. Gary Sebelius  
U.S. Magistrate Judge