

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

JENNIFER K. KINCAID,

Plaintiff,

Civil Action

v.

Case No. 05-2418-JWL

STACY STURDEVANT, et al.,

Defendants.

SECOND ORDER REGARDING DISCOVERY SANCTIONS

By Memorandum and Order dated September 27, 2007 (doc. 173), District Judge John W. Lungstrum ordered the Magistrate Judge to resolve any lingering sanction issues in connection with the four discovery-related motions that were the subject of the Magistrate Judge's proposed curative conditions regarding Plaintiff's Motion to Dismiss Counts With Prejudice and Without Prejudice.

Those four discovery motions were:

- (1) The CPT Defendants' Motion to Compel Plaintiff to Provide Complete Damages Information as Required by Fed. R. Civ. P. 26(a)(1)(C) (doc. 91),
- (2) The CPT Defendants' Motion for Discovery Sanctions Against Plaintiff Pursuant to Fed. R. Civ. P. 37(b)(2) and/or 37(c)(1) (doc. 110),
- (3) The CPT Defendants' and Sturdevant's Joint Motion to Compel Plaintiff to Respond to Interrogatories and Requests for Production of Documents (doc. 113), and
- (4) The AIMCO Defendants' Motion to Compel Plaintiff to Respond to Discovery Requests (doc. 126).

On December 27, 2007, the Magistrate Judge entered an Order Regarding Discovery Sanctions (doc. 177) resolving the lingering sanctions issues on these four motions. Plaintiff was ordered to pay the CPT Defendants their reasonable expenses in the amount of \$2,149.50 related to

the filing of their Motion to Compel Plaintiff to Provide Complete Damages Information (doc. 91) and Motion for Discovery Sanctions (doc. 110). The Order did not order Plaintiff to pay any expenses related to the filing of the AIMCO Defendants' Motion to Compel Plaintiff to Respond to Discovery Requests (doc. 126). The December 27 Order further found that Plaintiff should pay the reasonable expenses of the CPT Defendants and Defendant Sturdevant in making their Motion to Compel Plaintiff to Respond to Interrogatories and Requests for Production (doc. 113). To aid the Court in determining the proper amount to award, the Order further directed counsel for the CPT Defendants and Defendant Sturdevant to file affidavits itemizing their expenses and attorneys' fees incurred in bringing this motion. Plaintiff was given until January 25, 2008, to file any response to the affidavits.

On January 10, 2008, counsel for the CPT Defendants filed an affidavit (doc. 178) itemizing the attorneys' fees and expenses incurred in connection with their Motion to Compel Plaintiff to Respond to Interrogatories and Requests for Production. According to the affidavit, the CPT Defendants incurred attorneys' fees totaling \$1,302.00 in making the motion. Plaintiff never filed any response to the affidavit.

The Court has reviewed the affidavit of counsel and finds that the amount set forth in counsel's affidavit is reasonable.

IT IS THEREFORE ORDERED THAT the Court finds the CPT Defendants have incurred reasonable expenses of \$1,302.00 related to the filing of their Motion to Compel Plaintiff to Respond to Interrogatories and Requests for Production (doc. 113). **Plaintiff shall pay the CPT Defendants \$1,302.00 within ten (10) days of the date of this Order or upon the refiling of her lawsuit, whichever occurs later.**

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 4th day of February, 2008.

s/ David J. Waxse
David J. Waxse
United States Magistrate Judge

cc: All counsel and *pro se* parties