

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BRANDI N. WESLEY,

Plaintiff,

Vs.

No. 06-4070-SAC

MP NEXT LEVEL, LLC,

Defendant.

MEMORANDUM AND ORDER

On June 27, 2007, defendant MP Next Level, LLC,¹ filed a motion to dismiss this case based on plaintiff's failure to respond to discovery requests, failure to communicate with defense counsel, and failure to comply with court orders regarding discovery matters. The court referred this motion to dismiss and for attorneys' fees to the United States Magistrate Judge for report and recommendation, since the motion

¹The motion to dismiss refers to the defendant as "MP NexLevel, LLC," but because the complaint lists defendant as "MP Next Level, LLC," the court refers to the defendant similarly.

sought the sanction of dismissal for plaintiff's alleged failure to cooperate in discovery and failure to comply with the Magistrate Judge's orders, and the Magistrate Judge was familiar with the progress of the case.

The Magistrate Judge filed a report and recommendation on February 29, 2008 recommending that the case be dismissed and that defendant be awarded attorneys' fees, clearly stating the parties' right to file written objections to the recommendation within ten days of service. More than ten days have passed and no written objections have been filed.

The court has reviewed the report and recommendation as well as the relevant pleadings in this case. Based upon this review and the absence of any filed objections, the court accepts the report and recommendation and adopts it as the ruling of this court. The court notes that the amount of defendant's attorneys' fees remains to be decided by the Magistrate Judge.

IT IS THEREFORE ORDERED that defendant's motion to

dismiss and for attorneys' fees (Dk. 29) is granted.

Dated this 19th day of March, 2008, Topeka, Kansas.

s/ Sam A. Crow

Sam A. Crow, U.S. District Senior Judge