

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

BRIAN SOZA,

*Plaintiff,*

vs.

Case No. 08-2155-EFM

INTERSTATE BRAND CORPORATION,

*Defendant.*

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**MEMORANDUM AND ORDER**

Presently before the Court is Defendant Interstate Brand Corporation's ("IBC") Motion for Sanctions (Doc. 26). U.S. District Court Magistrate Judge Karen M. Humphreys has filed her Report and Recommendations (Doc. 37) pursuant to 28 U.S.C. § 636(b)(1)(C), recommending that this Court grant in part IBC's motion.

In its motion, IBC seeks sanctions due to Plaintiff Brian Soza's ("Soza") failure to respond to discovery and to comply with this Court's discovery orders. IBC requests the Court dismiss Soza's emotional distress and back pay claims, preclude him from referencing or referring to any event that is depicted on a flash drive that Soza has failed to produce, and award IBC its costs and expenses, including attorneys' fees relating to this motion and its attempts to obtain discovery compliance from Soza. After a thorough analysis of the discovery record in this case, the Magistrate Judge recommends that this Court grant IBC's motion to dismiss Soza's claim for damages based

on “humiliation” or emotional distress due to his noncompliance with the Court’s discovery order, but deny the motion with respect to IBC’s remaining requests.

The Court has reviewed the Report and Recommendations and finds itself in complete agreement with the Magistrate Judge’s conclusions. Further, the Court notes that ten days have passed since the Magistrate Judge’s Report and Recommendations have been filed, and neither party has filed a written objection to her proposed findings and recommendations. As a result, the Court accepts the recommended decision and adopts it as its own. Therefore, for the reasons stated by the Magistrate Judge, Soza’s claim for damages based on “humiliation” or emotional distress is DISMISSED, and we deny IBC’s motion with respect to monetary sanctions, Soza’s claim for back pay, and IBC’s request regarding the missing flash drive.

Accordingly,

**IT IS THEREFORE ORDERED** that Defendant Interstate Brand Corporation’s Motion for Sanctions (Doc. 26) is hereby GRANTED in part, and DENIED in part according to this Order.

**IT IS SO ORDERED.**

Dated this 10th day of July, 2009, in Wichita, Kansas.

/s Eric F. Melgren  
ERIC F. MELGREN  
UNITED STATES DISTRICT JUDGE