

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

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LORI BENSON,

Plaintiff,

ORDER

v.

06-C-198-C

PER MAR SECURITY,

Defendant.

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On April 20, 2006, this court granted plaintiff pro se Lori Benson leave to proceed against defendant Per Mar Security on her claim of employment-related sexual harassment. *See* *dk.* 4. On June 15, 2006, this court held a telephonic preliminary pretrial conference at which I explained to Ms. Benson how this case would proceed in this court. I followed up with an order that explained in simple terms concepts like discovery, dismissal motions, and so forth. *See* *dk.* 9.

Now before the court is Per Mar's motion for discovery sanctions. *See* *dk.* 10. Per Mar filed this motion on September 7, 2006; according to the pretrial conference order (*see* *dk.* 9 at 10), Ms. Benson had five days, until September 12, 2006, to file and serve a response. It is now September 18, and there is no response of any sort in the file.

Ms. Benson's failure to respond to the motion does not mean that the court automatically will grant it, but it means that Ms. Benson's version of events is not before the court. What we know is that back in July, Per Mar scheduled Ms. Benson's deposition for

August 30, 2006. On July 17, 2006, Per Mar sent a notice of this deposition to Ms. Benson, who signed off on the certified mail receipt. Ms. Benson never contacted Per Mar's attorneys to say that she could not come, or asking to move the date. On August 30, 2006, Ms. Benson failed to appear for the scheduled deposition. Pursuant to Rule 37(d), F.R. Civ. Pro., Per Mar now asks for severe sanctions and for \$830 in cost-shifting.

In the absence of any explanation from Ms. Benson, there is no reason to be lenient toward her after she failed to meet her clear discovery obligations in a lawsuit that she filed. Even so, before imposing substantive sanctions, this court will give Ms. Benson one more chance to attend her a deposition. Per Mar should schedule another deposition for Ms. Benson between October 2 and 13. If she fails to do so, then it is likely this court will dismiss her lawsuit with prejudice for failure to prosecute it and for failure to comply with this order. I will deny without prejudice Per Mar's request for cost-shifting. If Ms. Benson's does not comply with this order, then Per Mar may renew its request. Finally, the parties' deadline for filing summary judgment motions is extended two weeks to November 3, 2006.

It is ORDERED that defendant's motion for discovery sanctions is DENIED WITHOUT PREJUDICE.

Entered this 18<sup>th</sup> day of September, 2006.

BY THE COURT:  
/s/  
STEPHEN L. CROCKER  
Magistrate Judge