

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

LESLIE HELLER, KIMBERLY HILL,
and ASHLEIGH TURNER,

Plaintiffs,

v.

Case No. 8:23-cv-01720-JLB-AEP

JMX BRANDS, INC., and JIM MILLER,

Defendants.

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REPORT AND RECOMMENDATION

This matter comes before the Court upon Defendants’ Motion to Compel Discovery from Plaintiffs Turner and Hill (Doc. 20). In its Motion, Defendants maintain that Plaintiffs Kimberly Hill (“Hill”) and Ashleigh Turner (“Turner”), proceeding *pro se*, have failed to respond to Defendants’ discovery served September 13, 2024 (Doc. 20, ¶¶ 1–3). Defendants’ Motion further indicates that Hill and Turner have remained unresponsive to counsel for Defendants’ efforts to confer regarding the missing discovery (Doc. 20, ¶¶ 6–10). Accordingly, this Court issued an Order directing Plaintiffs Hill and Turner to respond to Defendants’ Motion by November 5, 2024, or inform defense counsel if they no longer wished to proceed with their claims (Doc. 21). Neither Plaintiff has responded to the motion.

On October 23, 2024, Defendants filed a Notice regarding their motion (Doc. 25). Therein, Defendants indicated that Plaintiff Turner had informed Defendants

she no longer wished to pursue her claims in this matter and had executed a joint stipulation for dismissal (Doc. 25, at 2). According to Defendants, in a phone call on October 15, 2024, Plaintiff Hill similarly indicated she no longer wished to pursue her claims (Doc. 25, at 3). However, Plaintiff Hill did not respond to six subsequent phone calls placed on October 21, 2024, October 22, 2024, and October 23, 2024, to coordinate her execution of a stipulation of dismissal or emails concerning same (Doc. 25, at 3–4). Moreover, Plaintiff Hill failed to appear for her deposition on October 23, 2024, and still has not provided discovery responses to Defendants (Doc. 25, at 4).

Under Rule 37, where a party fails to comply with a court’s discovery order, sanctions, including dismissal of the action, are appropriate. Fed. R. Civ. P. 37(b). Given Plaintiff’s failure to respond to this Court’s Order and indication that she no longer wishes to pursue her claim, it is hereby

RECOMMENDED:

1. This matter be dismissed with prejudice for lack of prosecution.
2. All pending motions be denied as moot.
3. The clerk be directed to close the case.

IT IS SO REPORTED in Tampa, Florida, this 6th day of November 2024.



ANTHONY E. PORCELLI
United States Magistrate Judge

NOTICE TO PARTIES

A party has fourteen days from the date they are served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. § 636(b)(1)(C). A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1). **Should the parties wish to expedite the resolution of this matter, they may promptly file a joint notice of no objection.**

cc: Hon. John L. Badalamenti
Counsel of Record