

also served discovery on Plaintiff. (Doc. No. 6). Plaintiff never answered that discovery or filed a certificate of service regarding that discovery.

Defendant Sallie Mae sought and received a Clerk's ten day extension of time to answer, but has never answered. Counsel for Sallie Mae entered his appearance, however, and appeared at two scheduling conferences.

The Court mailed a Scheduling Notice April 2, 2003, requiring the parties to confer and file a Report of Parties' Planning Meeting for a hearing to be held May 21, 2003. Plaintiff moved, and provided the Court no forwarding address, as required by Fed. R. Bankr. P. 4002(5), and thus did not attend the May 21, 2003 Scheduling Conference. Counsel for both defendants ECMC and Sallie Mae appeared. A second Scheduling Conference was set for July 15, 2003, and a new address located for Plaintiff. Because the Court was not convinced notice had been sent to the correct address for Plaintiff, the matter was continued, again, to August 19, 2003. Counsel for both defendants ECMC and Sallie Mae appeared before the Court on July 15, 2003.

On July 21, 2003, ECMC filed a Motion to Dismiss this Adversary Proceeding for lack of prosecution, including Plaintiff's failure to respond to discovery issued in February, and her failure to attend and participate in the Scheduling Conferences, including drafting a Parties' Planning Meeting Report. On August 14, 2003, this Court sent a letter to Plaintiff advising her that a response to ECMC's Motion to Dismiss had been due August 13, 2003. The Court gave her ten (10) additional days to file a response, and cautioned her that if she did not file a response, the motion would be deemed uncontested pursuant to D. Kan. Rule 7.4.

Plaintiff still filed no response, and has not served discovery responses or otherwise made any attempt to participate in this litigation. Counsel for ECMC represented to the Court that he had

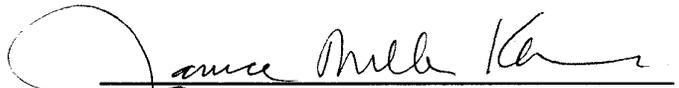
contact with Plaintiff, and she had indicated a desire to attempt to resolve her student loans through the William D. Ford program. Plaintiff has made no effort to prosecute this lawsuit against Defendants ECMC and Sallie Mae. She has failed to attend court hearings, and to respond to discovery. She failed to respond to ECMC's Motion to Dismiss. She has done nothing to prosecute the lawsuit since filing it in over six months ago. Accordingly, the Court finds the Complaint against ECMC is dismissed, without prejudice.

Although counsel for Sallie Mae has orally represented to the Court that all Sallie Mae loans were, in fact, sold to defendant ECMC, Sallie Mae has never filed an answer, nor has Plaintiff made any attempt to prosecute a default judgment against Sallie Mae. The Court thus directs Plaintiff to show cause in writing on or before October 2, 2003, why her complaint against Sallie Mae should not be dismissed for lack of prosecution. If a hearing is desired, it must be requested in the written response.

IT IS, THEREFORE, BY THIS COURT ORDERED that Plaintiff's Complaint against Defendant ECMC is dismissed, without prejudice.

IT IS FURTHER ORDERED that Plaintiff shall show cause in writing by October 2, 2003, why the complaint against Defendant, Sallie May, should not be dismissed for failure to prosecute her claim.

IT IS SO ORDERED this 16^L day of September, 2003.


JANICE MILLER KARLIN, Bankruptcy Judge
United States Bankruptcy Court
District of Kansas

CERTIFICATE OF MAILING

The undersigned certified that copies of the **ORDER DISMISSING COMPLAINT AGAINST ECMC FOR LACK OF PROSECUTION** was deposited in the United States mail, prepaid on this 16th day of September, 2003, to the following:

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Debra C. Goodrich
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The Honorable Janice Miller Karlin
Bankruptcy Judge