

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DJANA PEARSON MORRIS,)	
Plaintiff)	
)	
v.)	Case No. 03-CA-1109
)	Calendar 7
FAX.COM, INC., et al.,)	Judge Kravitz
Defendants)	
)	

**ORDER GRANTING PLAINTIFF'S MOTION FOR SANCTIONS AGAINST
DEFENDANT KEVIN KATZ FOR SECOND FAILURE TO ATTEND
DEPOSITION AND FOR CONTEMPT OF COURT**

This matter is before the Court on the plaintiff's motion for sanctions against defendant Kevin Katz. The plaintiff contends that a wide range of sanctions, including the entry of a default judgment and injunctive relief and an award of attorney's fees, are appropriate in light of Katz's failure, for the second time, to attend a deposition that had been properly noted by the plaintiff and confirmed by the Court in an order denying Katz's motion for a protective order. Katz has filed a response to the plaintiff's motion, and the plaintiff has filed a reply.

As Katz essentially concedes, the Court has the discretionary authority to enter a default against him as a sanction for his failure to appear at the deposition scheduled for December 10, 2003. The Court is tempted to go ahead and enter a default in light of Katz's repeated and apparently willful failures to comply with his discovery obligations in this case. However, in light of the Court of Appeals' repeated urgings that trial courts in this jurisdiction should manage civil litigation in a manner aimed at maximizing the likelihood that disputes will be resolved on their merits, the Court will not enter a default at this time and will, instead, impose a monetary sanction aimed at reimbursing the

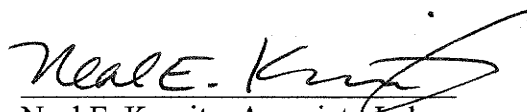
plaintiff for her costs, including reasonable attorney's fees, in preparing for the deposition scheduled for December 10, 2003 and in litigating the motion currently before the Court. The defendant should understand that the Court is almost certain to enter a default against him, and will consider the full range of additional sanctions available to it, if he fails for a third time to appear for a properly noted deposition in this case.

It is this 6 day of January 2004

ORDERED that the plaintiff's motion is **GRANTED**. It is further

ORDERED that by January 23, 2004 the defendant shall pay \$1,685.00 to the plaintiff as a sanction.¹ It is further

ORDERED that the defendant shall submit to a deposition to be conducted by the plaintiff in the District of Columbia on or before February 6, 2004.


Neal E. Kravitz, Associate Judge
(Signed in Chambers)

Copies mailed to:

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¹ The Court has set the amount of the sanction by determining that plaintiff's counsel reasonably spent three hours preparing for the deposition before learning that Katz was not going to appear, fifteen minutes confirming the cancellation of the deposition with the court reporting company, four hours preparing the motion for sanctions, and two hours preparing the reply to the defendant's response to the motion. The Court has applied an hourly rate of \$180. It also has added \$20 for the filing fee for the motion. It has not included time spent by plaintiff's counsel preparing his opposition to Katz's motion to quash, as that legal work was not necessitated by any misconduct on the part of Katz.