

Court of Appeals, State of Michigan

ORDER

National Collegiate Student Loan Trust 2007-3 v Jasmine Alexander

Docket No. 344406

LC No. 17-001334-CK

Kirsten Frank Kelly
Presiding Judge

Christopher M. Murray

Cynthia Diane Stephens
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's June 5, 2018 order dismissing plaintiff's complaint is VACATED, and the matter is REMANDED for further proceedings. The trial court dismissed plaintiff's complaint due to plaintiff's failure to comply with earlier orders concerning depositions. In Docket No. 343810, this Court has vacated those orders. Further, it was an abuse of discretion to dismiss the complaint rather than consider the lesser sanctions the trial court had already stated it would impose if the individual witnesses were not deposed. See *Bloemendaal v Town & Country Sports Ctr, Inc*, 255 Mich App 207, 214; 659 NW2d 684 (2002) (explaining that dismissal is a drastic step, and that before imposing such a sanction, "the trial court must carefully evaluate all available options on the record and conclude that dismissal is just and proper."). Nor does it appear that plaintiff's conduct would warrant the extreme sanction of dismissal. See *Thorne v Bell*, 206 Mich App 625, 633; 522 NW2d 711 (1994) (explaining factors to be considered when determining whether dismissal is an appropriate sanction).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT 11 2018

Date


Chief Clerk