



SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MARY NELSON)	CASE NO.
)	BC333028
Plaintiff(s))	
)	
Vs.)	ORDER
)	
AMERICAN APPAREL)	
Defendant(s))	
_____)	

Defendants' motion for terminating sanctions is DENIED. Preliminarily, the court notes that independent of the Jeffrey D. Spillman declaration, evidence exists that plaintiff did not disclose her full earnings from Caden Concepts at the 3/24/06 evidentiary hearing. Plaintiff's own declaration and the declaration of plaintiff's former employer, Lori Caden, show that Caden Concepts made payments to plaintiff's corporation, Silly & Tank, that were in fact part of plaintiff's compensation. (See Nelson Decl., ¶6 ("During my employment with Caden Concepts, my employer pleased with *my good work and ability to bring in clients*, suggested that I open a corporation and wished to make payments to that corporation. Since I already had a corporation in place, the payments were made to Silly & Tank."); see also Caden Decl., ¶4 ("I quickly discovered Ms. Nelson was an excellent worker and I thought she may be able to do more for my business than just being my personal assistant, I suggested that she open up a corporation and I made payments to that corporation.")) In any event, plaintiff's failure to disclose her full earnings from Caden Concepts affected the court's decision regarding plaintiff's ability to pay for a discovery referee, not defendants' ability to defend themselves in this action. For this reason, the court determines that lesser sanctions would be adequate to ensure a fair trial. Accordingly, the court imposes monetary sanctions against plaintiff in the amount of \$7,500.00.

Plaintiff's motion for protective order to exclude Dr. Debra Borys from attending the depositions of Dr. David Crausman and Dr. Samantha Fox is DENIED. Plaintiff has not shown good cause for the exclusion of Dr. Borys and/or that the attendance of Dr. Borys would cause "unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." (See CCP §2025.420(b); see also Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2007) ¶¶ 8:698 to 8:699, pp. 8E-100 to 8E-101.) The cross-requests for sanctions are DENIED.

Plaintiff's motion for protective order regarding the depositions of Melodie Wilson and Kevin Kelly is GRANTED. The cross-requests for sanctions are DENIED. Defendants may file the appropriate motion in limine if plaintiff attempts to later call these witnesses at trial.

Dated: 12-18-07

JOHN P. SHOOK

JUDGE OF THE SUPERIOR COURT