## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

MADELINE S. EWING,	)
Plaintiff,	) CIVIL ACTION
v. BRIAN STUDDARD and	) No. 08-2024-KHV
TWA RESTAURANT GROUP,	)
Defendants.	) )

## **ORDER**

Madeline S. Ewing, *pro se*, brings suit against Brian Studdard and TWA Restaurant Group. Plaintiff alleges discrimination (1) on the basis of race and sex in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e <u>et seq.</u>, and (2) on the basis of age in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 <u>et seq.</u>

On April 15, 2008, Magistrate Judge James P. O'Hara ordered plaintiff to show good cause in writing on or before April 21, 2008, why her case should not be dismissed with prejudice for lack of prosecution. See Notice And Order To Show Cause (Doc. #20). Specifically, Judge O'Hara noted that plaintiff had failed to cooperate in the development of a discovery and case management plan and that defendants and the Court had been unable to contact her. See id. at 1-2. Judge O'Hara cautioned plaintiff that her failure to actively participate in the case could cause the Court to dismiss her claims with prejudice such that she could not reassert them. See id. at 2. This matter comes before the Court on the letter dated April 22, 2008 (Doc. #21), which the Court construes as a response to the show cause order.

Rule 41(b), Fed. R. Civ. P., permits the Court to dismiss an action for lack of prosecution.

By virtue of the need to manage the orderly and expeditious disposition of cases, the Court also

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possesses the inherent power to dismiss sua sponte for lack of prosecution. Link v. Wabash R.R.,

370 U.S. 626, 630-31 (1962).

In her response to the Court's show cause order, plaintiff states that she has been unable to

find an attorney and has been "busy with other employment." She further argues that the Court

should not dismiss her case "because [she] was treated very badly [and] went [through] so much."

Overlooking the tardiness of her response, the Court finds that plaintiff has not shown good cause

for the failure to prosecute. She has not explained her unavailability or provided alternate contact

information. More specifically, the response does not explain her failure to cooperate with

defendants in the development of a discovery and case management plan. To this point, plaintiff

has shown little regard for the Court's directives, and her response to the show cause order does not

forecast any improvement. Under these circumstances, the Court dismisses plaintiff's claims

without prejudice. See D. Kan. Rule 41.1 (where plaintiff does not show good cause for lack of

prosecution, court "may enter order of dismissal which shall be with prejudice unless the court

otherwise specifies").

IT IS THEREFORE ORDERED that plaintiff's claims be and hereby are DISMISSED

without prejudice. The Clerk of the Court is directed to enter judgment in favor of defendants in

this matter.

Dated this 12th day of May, 2008 at Kansas City, Kansas.

s/ Kathryn H. Vratil

KATHRYN H. VRATIL

**United States District Court** 

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