

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

NADIA NAFFE,

Plaintiff,

v.

CASE No. 8:04-CV-1916-T-27TGW

REPUBLICAN PARTY OF FLORIDA,
et al.,

Defendants.

ORDER

THIS CAUSE came on to be heard upon the Motion of Defendant Republican Party of Florida Compelling the Return of Property or for A Jury Instruction Providing for An Adverse Inference Based on Spoliation of Evidence (Doc. 43), and the response thereto (Doc. 47). The motion requested the return of a laptop computer that was provided to the plaintiff when she was employed by the Republican Party of Florida (“RPOF”). Under the circumstances, it seemed appropriate to conduct an

evidentiary hearing concerning the current status of the laptop computer and the plaintiff's handling of it.

Based upon testimony of the plaintiff at the hearing, I find that the plaintiff, upon her termination on April 2, 2004, was specifically instructed to return all RPOF equipment, including a computer. The plaintiff had the computer at that point and intentionally did not return it. Subsequently, the plaintiff took the laptop computer to her mother's home in Pensacola, Florida, and it could no longer be located there, assertedly because the home was severely damaged during Hurricane Ivan.

In light of the foregoing, the motion is hereby **DENIED** to the extent that it requests the return of the laptop computer since the present evidence is that the laptop computer has been discarded, and, in all events, is not available to the plaintiff.

To the extent that the motion requests a jury instruction providing for an adverse inference based on spoliation of evidence, that matter is appropriately **DEFERRED** for the consideration of the trial judge at trial. The defendant, at this point, was not able to specify any particular inference that should be drawn from the unavailability of the laptop computer.

Any adverse inference from the unavailability of the laptop computer needs to be developed at trial.

IT IS SO ORDERED.

DONE and ORDERED at Tampa, Florida, this 28th day of July, 2005.



THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE