

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 07-cv-02038-WYD-KLM

JOSEPH M. ERNEST,

Plaintiff,

v.

LOCKHEED MARTIN CORPORATION,

Defendant.

ORDER REOPENING CASE AND SETTING HEARING

THIS MATTER comes before the Court on both the Motion to Reopen Case Administratively Closed Under D.C.COLO.LCivR 41.2 (docket #59) and the Motion for Contempt and Dismissal With Prejudice (docket #60), filed April 23, 2009. The pending motions request that I reopen this case, declare Plaintiff and his counsel in civil contempt of court, and dismiss this action with prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute and comply with this Court's Order of July 29, 2008 (docket #56), which, among other things, ordered the parties to arbitrate Plaintiff's Uniformed Services Employment and Reemployment Rights Act ("USERRA") claim against the Defendant. It is hereby

ORDERED that this case is reopened for good cause shown pursuant to D.C.COLO.LCivR 41.2. It is

FURTHER ORDERED that Plaintiff has up to and including **Friday, May 8, 2009** to file a response to Defendant's Motion for Contempt and Dismissal With Prejudice. In

his response, Plaintiff is ordered to respond to each of the specific assertions that Plaintiff and his counsel have acted in ways that are in clear defiance of my prior Order.

It is

FURTHER ORDERED that a hearing on the Motion for Contempt and Dismissal With Prejudice shall take place on **Friday, June 12, 2009, at 9:00 a.m. in Courtroom A1002 at 901 19th Street, Denver, Colorado 80294.** It is

FURTHER ORDERED that the **Plaintiff and his counsel shall appear in person** at the hearing and respond as to why they should not be held in contempt of court and why remedial and/or punitive sanctions should not be entered against them.

Dated: April 24, 2009

BY THE COURT:

s/ Wiley Y. Daniel _____
Wiley Y. Daniel
Chief United States District Judge