

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 14-cv-02287-RM-MJW

ERIC JOHNS,

Plaintiff,

v.

DILLON COMPANIES, d/b/a King Soopers, Inc., a Foreign Corporation, and/or
THE KROGER CO., d/b/a King Soopers, Inc., a Foreign Corporation,
JANE DOE (an unidentified employee of Bimbo Bakeries USA, Inc.), and
BIMBO BAKERIES USA, INC., a Foreign Corporation,

Defendants.

ORDER

This matter is before the Court on a recommendation from United States Magistrate Judge Michael J. Watanabe (the “Recommendation”) (ECF No. 25) that this case be dismissed with prejudice as to all Defendants under Rules 16(f) and 41(b) of the Federal Rules of Civil Procedure with costs taxed to Plaintiff under Rule 54(d)(1).

The Recommendation is based upon *pro se* Plaintiff’s failure to prosecute. Plaintiff has not meaningfully participated in this litigation since its removal to federal court. (ECF No. 25 at 2-8.) Plaintiff has not responded in any way to the Recommendation despite having more than ample time to do so.

I agree with Judge Watanabe’s analysis of the appropriate sanction in this case, which is dismissal with prejudice with an award of reasonable costs in connection with the lawsuit. Given Plaintiff’s numerous failures to appear, respond, prosecute this case, the length of time in which

he has neglected this case, and the fact that nothing in the record appears to excuse his neglect of this matter, dismissal with prejudice is appropriate.

Having reviewed the record, and with no party filing an objection to the Recommendation, the Court accepts and adopts the Recommendation in full. Accordingly, the Court:

- (1) ADOPTS the Recommendation (ECF No. 25) in its entirety;
- (2) DISMISSES WITH PREJUDICE the Complaint (ECF No. 4) for failure to prosecute, failure to appear, and failure to comply with Court orders;
- (3) DENIES as moot Defendant's request to dismiss (*see* ECF No. 23);
- (4) ORDERS Plaintiff to pay taxable costs under Rule 54(d)(1) of the Federal Rules of Civil Procedure; and
- (5) ORDERS Defendants to file a bill of costs and an affidavit with supporting documentation regarding costs incurred in connection with this litigation no later than fourteen (14) days after entry of judgment.

The Clerk of the Court is directed to enter JUDGMENT in Defendants' favor.

DATED this 11th day of December, 2014.

BY THE COURT:



RAYMOND P. MOORE
United States District Judge