

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 07-61295-CIV COHN/SELTZER

REINALDO RAMON LAMONICA, et al.,  
on behalf of themselves and other  
employees similarly situated,

Plaintiffs,

v.

SAFE HURRICANE SHUTTERS, INC.,  
a Florida corporation d/b/a ADVANCED  
HURRICANE PROTECTION, EDWARD  
LEIVA, STEVE HEIDELBERGER and  
FRANCIS McCARROLL

Defendants.  

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**ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR  
INVOLUNTARY DISMISSAL**

**THIS CAUSE** is before the Court on Defendants' Motion for Involuntary Dismissal as to Plaintiffs Reinaldo Lamonica, Angeles Lamonica-Soler, Ronaldo Gomez Morsa, Pedro Lopez Vasquez, and Giovanni Perez for Failure to Prosecute [DE 137] ("Motion"). The Court has reviewed the Motion, all of the parties' submissions, heard argument of counsel, and is otherwise advised in the premises.

Plaintiffs Pedro Lopez Vasquez and Giovanni Perez, proceeding *pro se* in this matter, failed to respond to the Motion and failed to appear at the Status Conference scheduled for February 17, 2011. Furthermore, counsel for the remaining plaintiffs represented to the Court that Plaintiffs Pedro Lopez Vasquez and Giovanni Perez have not responded to his communications. "The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be

doubted.” Link v. Wabash Railroad Co., 370 U.S. 626, 629-31 (1962); see also Fed. R. Civ. p. 41(b). The Court, therefore, will dismiss with prejudice the claims of Plaintiffs Pedro Lopez Vasquez and Giovanni Perez for failure to prosecute.

Counsel for Ronaldo Gomez Morsa represents that he has been unable to communicate with Mr. Gomez Morsa. Furthermore, Mr. Gomez Morsa failed to appear for his deposition in this case. Nonetheless, Mr. Gomez Morsa remains represented by counsel who opposes dismissal. Because trial is scheduled to commence in ten days and Defendant has not yet deposed Mr. Gomez Morsa, the Court will dismiss Mr. Gomez Morsa’s claim without prejudice.

Defendants, however, have not shown good cause for the dismissal of Plaintiffs Reinaldo Lamonica or Angeles Lamonica-Soler. Accordingly, it is

**ORDERED AND ADJUDGED** that Defendants’ Motion for Involuntary Dismissal as to Plaintiffs Reinaldo Lamonica, Angeles Lamonica-Soler, Ronaldo Gomez Morsa, Pedro Lopez Vasquez, and Giovanni Perez for Failure to Prosecute [DE 137] is **GRANTED IN PART AND DENIED IN PART**. The claims of Plaintiffs Pedro Lopez Vasquez and Giovanni Perez are **DISMISSED WITH PREJUDICE**. The claims of Plaintiff Ronaldo Gomez Morsa are **DISMISSED WITHOUT PREJUDICE**. The Motion is **DENIED** as it pertains to Plaintiffs Reinaldo Lamonica or Angeles Lamonica-Soler.

**DONE AND ORDERED** in the Chambers of Fort Lauderdale, Broward County, Florida on this 18th day of February, 2011.

Copies provided to counsel of record.

  
JAMES I. COHN  
United States District Judge