

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIGUEL ANGEL CORBACHO DAUDINOT.

Plaintiff,

CASE NO. 1:13-cv-22589-KMV

v.

YASIEL PUIG VALDES a/k/a YASIEL PUIG
and MARITZA VALDES GONZALEZ.Defendants.

PLAINTIFF'S RESPONSE TO COURT'S ORDER TO SHOW CAUSE

Plaintiff, MIGUEL ANGEL CORBACHO DAUDINOT, through counsel, files this Response to the Court's Order to Show Cause and in support thereof states:

It is office policy at Avelino J. Gonzalez, P.A., attorneys for the Plaintiff, to enter any upcoming court dates and deadlines into the office's main calendar and into Avelino Gonzalez's handheld calendar book when a notice or court order containing such dates or deadlines are supplied to the office. That practice is done by Araceli Betancourt, the office's legal assistant.

When the court's Order [DE 42] Setting Schedule Requiring Mediation, Referring Certain Matters to Magistrate Judge, and Establishing Pre-Trial Procedures, the office established the same procedure that is normally adopted, and the dates were entered into the main calendar and into Attorney Gonzalez's handheld calendar book. However, because no dates had been established for the mediation and because it was in a separate section from the Schedule as set out by the court in Roman numeral I, Ms. Betancourt inadvertently missed it as a deadline and did not place it in the main calendar nor did she place it in Attorney Gonzalez's handheld calendar book.

"Courts apply the excusable neglect standard whether a party missed a deadline set by the Federal Rules of Civil Procedure or a deadline imposed by a court order." Boraks v. Daniels, 2011 WL 4566218 (S.D.Fla 2011). *See also, Cavaliere v. Allstate Ins. Co.*, 996 F.2d 1111 (11th Cir. 1993); *Springman v. City of Venice*, 439 Fed.Appx. 861 (11th Cir. 2011).

The undersigned acknowledges the error and humbly apologizes for same, but argues that it was excusable neglect that has not unnecessarily delayed the case, nor has it prejudiced either party since this case is still in its inception and no unnecessary discovery or litigation has taken place.

If it pleases the court, Plaintiff shall work diligently with Defendant in order to choose a mediator and schedule the mediation, and shall file on a date ordered by the court their proposed order scheduling mediation.

WHEREFORE, since Plaintiff missed the deadline for filing the joint proposed order scheduling mediation due to inadvertence and excusable neglect, Plaintiff respectfully requests that the court does not dismiss the case, and permits him a second opportunity to file the proposed order and continue with the case.

Respectfully Submitted,

s/Kenia Bravo

Kenia Bravo, Esq., FBN 68296

Avelino J. Gonzalez, Esz. FBN 75530

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this document was filed in federal court using CM/ECF on October 2, 2014.

s/Kenia Bravo

Kenia Bravo, Esq., FBN 68296

Avelino J. Gonzalez, Esz. FBN 75530

Law Offices of Avelino J. Gonzalez, P.A.

6780 Coral Way, Miami, Florida 33155

Ph: 305-668-3535; Fax: 305-668-3545

E-mail: AvelinoGonzalez@bellsouth.net