

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KEVIN COLLMAN,)	CIV. NO. 09-00265 SOM/LEK
)	
Plaintiff,)	
)	ORDER ADOPTING FINDING AND
vs.)	RECOMMENDATION THAT CASE BE
)	DISMISSED WITHOUT PREJUDICE
HSBC BANK USA, NATIONAL)	
ASSOCIATION AS TRUSTEE FOR)	
WFBMS 2007-AR6,)	
)	
Defendants.)	
_____)	

ORDER ADOPTING FINDING AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE

I. INTRODUCTION.

This matter is before this court on objections to Magistrate Leslie E. Kobayashi’s Finding and Recommendation (“F & R”) of September 28, 2009. The F & R recommends that Plaintiff Kevin Collman’s case be dismissed without prejudice because he failed to prosecute his case when he failed to file a scheduling conference statement, and when he failed to appear at the scheduling conference. On October 14, 2009, Collman filed an objection to the F & R and a request to reschedule the scheduling conference. For the reasons set forth below, the court adopts the F & R and dismisses the case without prejudice.

II. DISCUSSION.

The court reviews de novo those portions of the F & R to which objection is made and may accept, reject, or modify, in

whole or in part, the findings or recommendation made by the magistrate judge. Fed. R. Civ. P. 72(b).

Collman contends that because his wife gave birth on September 21, 2009, he was unable to appear at the September 14, 2009, scheduling conference. Although the court understands that the birth of a child is a momentous and joyous event, his failure to file a scheduling conference statement, to appear at a settlement conference a week before the birth of his twin boys, and to provide any explanation to the court for weeks thereafter justifies dismissal of his case. If at least one of the above failures were not before this court, this court would likely be more lenient and excuse Collman's remaining failures. However, the failures are sufficiently numerous and egregious to warrant dismissal.

The court adopts the F & R and overrules Collman's objections to the F & R. As the case is dismissed without prejudice, Collman may file a new complaint. He may also again apply for in forma pauperis status. In any future complaint or litigation, Collman should diligently follow deadlines and be aware of court proceedings.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 16, 2009.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

Kevin Collman v. HSBC Bank USA, Nat'l Ass'n as Trustee for WFMB
2007-AR6, Civ. No. 09-265 SOM/LEK; ORDER ADOPTING FINDING AND
RECOMMENDATION THAT CASE BE DISMISSED WITHOUT PREJUDICE.