

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**BILLY RAY FARMER III, ET AL.**

**CIVIL ACTION**

**VERSUS**

**NO: 10-2971**

**LOUISIANA ELECTRONIC AND  
FINANCIAL CRIMES TASK FORCE,  
ET AL.**

**SECTION: "S" (3)**

**ORDER AND REASONS**

**IT IS HEREBY ORDERED** that the Motion to Dismiss for failure to comply with a court order filed by defendants Toby Aguiard and Marcus McMillian (Doc. #47), is **GRANTED**, and plaintiffs' claims against them are **DISMISSED WITH PREJUDICE**.

Rule 41(b) of the Federal Rules of Civil Procedure provides that the court may dismiss an action if the plaintiff fails to prosecute or comply with the Federal Rules of Civil Procedure or any order of the court. Dismissal under Rule 41(b) "is an inherent power of the court, to be exercised in the district court's discretion," and dismissal with prejudice is proper "when there is a clear record of delay or contumacious conduct by the plaintiff and lesser sanctions would not serve the interests of justice." Ford v. Sharp, 758 F.2d 1018, 1021 (5th Cir. 1985). Factors relevant to this court's determination are: "(1) the extent to which the plaintiff, as distinguished from his counsel, was personally responsible for the delay, (2) the degree of actual prejudice to the defendant, and (3) whether the delay was the result of intentional conduct." Id.

This case was filed in the Twenty-First Judicial District Court, Parish of Tangipahoa, State of Louisiana on June 24, 2010, and removed to the United States District Court for the Eastern District of Louisiana on September 9, 2010. On December 16, 2011, counsel for plaintiffs and defendants participated in a preliminary conference with this court's case manager, after which a

scheduling order was entered into the record. That December 20, 2011, scheduling order provides that the deadline for the exchange of initial disclosures was January 13, 2012, the deadline for plaintiffs to serve expert reports on the defendants was April 19, 2012, the deadline for filing witness and exhibit lists was June 18, 2012.

Plaintiffs have failed to meet any of these deadlines and have not offered any reasonable explanation for their lapse. This case has been pending for two years, and is set for pretrial conference on August 16, 2012, and trial on September 10, 2012. Plaintiffs' failure to comply with the deadlines set forth in this court's scheduling order demonstrates a complete disregard for this court's procedures and justifies dismissal with prejudice.

New Orleans, Louisiana, this 10th day of August, 2012.

  
MARY ANN VIAL LEMMON  
UNITED STATES DISTRICT JUDGE