UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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JUAN CARLOS RIVERA,

Plaintiff,

vs.

BERGELECTRIC CORPORATION and MARCUS GARCIA,

Defendants.

2:08-CV-01176-PMP-LRL

ORDER

Before the Court for consideration is Defendant Bergelectric Corporation's Motion to Dismiss Based on Plaintiff's Failure to Attend his Deposition, or Alternatively, to Compel Plaintiff to Complete his Deposition and Motion to Extend Discovery and Motion Deadlines (Doc. #41), filed on September 9, 2010.

Also before the Court is Plaintiff Rivera's Letter/Motion to Continue his Deposition (Doc. #40). The foregoing motions come on the heals of an Order (Doc. #39) entered July 28, 2010, by the Honorable Lawrence R. Leavitt, United States Magistrate Judge compelling Plaintiff to complete his deposition. Notwithstanding Judge Levitt's Order, Plaintiff Rivera takes the position in his Letter/Motion (Doc. #40) filed September 1, 2010, that "there is no possible way that Plaintiff can commit to a deposition for a second time."

Having read and considered Defendant's fully briefed Motion to Dismiss (Doc. #41), including the contents of Plaintiff's Opposition (Doc. #44) filed September 15, 2010, and Plaintiff's Letter/Motion to Continue Deposition (Doc. #40) filed September 1, 2010, it is apparent to the Court that Plaintiff Rivera has no intention of complying with the prior Orders of this Court that he complete his deposition as ordered by Judge Leavitt (Doc. #39). Plaintiff Rivera's actions negate the expeditious resolution of this litigation and the Court's ability to manage its docket. Defendants are clearly prejudiced by Plaintiff's refusal to complete the discovery process in this case. Notwithstanding the public policy favoring disposition of cases on their merits, the Court finds that the sanction of dismissal of Plaintiff's Complaint pursuant to Rule 37 of the Federal Rules of Civil Procedure is warranted in this particular case.

IT IS THEREFORE ORDERED that Defendant Bergelectric Corporation's Motion to Dismiss Based on Plaintiff's Failure to Attend his Deposition, or Alternatively, to Compel Plaintiff to Complete his Deposition and Motion to Extend Discovery and Motion Deadlines (Doc. #41) is **GRANTED**.

DATED: October 6, 2010.

PHILIP M. PRO
United States District Judge