

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MICHAEL WILSON, SR.,

Plaintiff,

v.

Civ. No. 11-658 KG/SCY

LAWRENCE MONTANO, et al.,

Defendants.

Consolidated with

DUSTIN SARRETT, et al.,

Plaintiffs,

v.

Civ. No. 11-1021 KG/SCY

ROY A. CORDOVA, et al.,

Defendants.

ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter comes before the Court upon the Motion to Dismiss Under Rules 41(a), 16(f), and 37(d)(1)(A), filed December 1, 2017, and the Joint Motion for Sanction of Dismissal for Failure to Appear at Properly Noticed Deposition Under Rule 37(d)(1)(A)(i), filed November 8, 2017. (Docs. 251 and 237).<sup>1</sup> On November 28, 2017, the Court referred these motions to Magistrate Judge Steven Yarbrough for entry of proposed findings and a recommended disposition. (Docs. 246 and 247). Judge Yarbrough held a hearing on the motions on December 22, 2017. (Docs. 250 and 268).

Then, on January 19, 2018, Judge Yarbrough entered his Proposed Findings and Recommended Disposition (PFRD) in which he recommends granting the motions and

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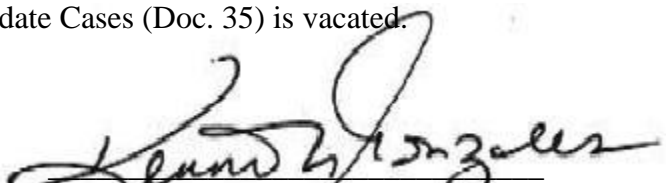
<sup>1</sup> Unless otherwise indicated, all citations are to the record in the lead case, Civ. No. 11-658 KG/SCY.

dismissing with prejudice Plaintiff Michael Wilson's lawsuit, Civ. No. 11-658 KG/SCY, and dismissing with prejudice Plaintiffs Dustin Sarrett and Oscar Leyva's claims in Civ. No. 11-1021 KG/SCY. (Doc. 279). Judge Yarbrough notified the parties that they had 14 days from the service of the PFRD to file any objections to the PFRD. *Id.* at 23. No party filed objections to the PFRD. Instead, Valencia County Defendants filed Defendants' Statement in Support of Recommendations Dated January 19, 2018 [Doc. 279] (Defendants' Statements) on February 2, 2018. (Doc. 283).

Upon review of the PFRD and Defendants' Statements, I concur with Judge Yarbrough's findings and recommendations and will adopt the PFRD. In doing so, the remaining case will be Civ. No. 11-1021 KG/SCY, thereby making consolidation no longer necessary.

IT IS, THEREFORE, ORDERED that:

1. the Court adopts the PFRD (Doc. 279);
2. the Motion to Dismiss Under Rules 41(a), 16(f), and 37(d)(1)(A) (Doc. 251) is granted;
3. the Joint Motion for Sanction of Dismissal for Failure to Appear at Properly Noticed Deposition Under Rule 37(d)(1)(A)(i) (Doc. 237) is granted;
4. the Court will dismiss with prejudice Plaintiff Wilson's lawsuit, Civ. No. 11-658 KG/SCY;
5. the Court will dismiss with prejudice Plaintiffs Sarrett and Leyva's claims in Civ. No. 11-1021 KG/SCY; and
6. the Order Granting Motion to Consolidate Cases (Doc. 35) is vacated.

  
UNITED STATES DISTRICT JUDGE