

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

GERARDO HERRERA,

Plaintiff,

v.

No. CV 20-142 CG/GBW

BERKLEY REGIONAL INSURANCE  
COMPANY,

Defendant.

**ORDER DENYING MOTION TO DISMISS**

**THIS MATTER** is before the Court upon the referral judge's *Order Permitting Defendant to Take Additional Discovery* (the "Order"), (Doc. 102), filed on February 11, 2021. In the Order, the referral judge declined to issue any recommendation on Defendant's *Motion to Dismiss Plaintiff's Claims as a Result of Discovery Violations and Abuses* (the "Motion"), (Doc. 64), and instead permitted Defendant to take additional Phase One discovery. (Doc. 102 at 12). The referral judge explained that at the hearing on the Motion Defendant had "consented to the imposition of lesser sanctions in lieu of the Court issuing a recommendation on the [Motion]." *Id.* at 1. For these reasons, the Court will deny Defendant's Motion as moot.

**IT IS THEREFORE ORDERED** that Defendant's *Motion to Dismiss Plaintiff's Claims as a Result of Discovery Violations and Abuses*, (Doc. 64), is **DENIED AS MOOT**.

**IT IS SO ORDERED.**



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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE