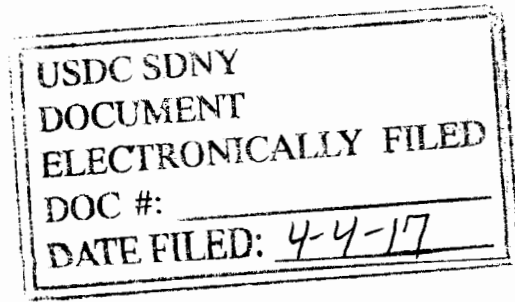


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



**MOISES ISAIAS COXOLCA SUY,
LUIS MIGUEL LARES CUTZAL, and
JULIO LUCAS,**

Plaintiffs,

- against -

**BONCHON U.S.A., INC., JINDUK SEH, and
HONG TAE KIM,**

Defendants.

**OPINION AND ORDER
16-CV-2454 (RLE)**

RONALD L. ELLIS, United States Magistrate Judge:

On April 2, 2016, Plaintiffs Julio Lucas, Luis Miguel Lares Cutzal, Moises Isaias Coxelca Suy, and Luis Miguel Lares Cutzal commenced this action. (Doc. No. 1.) On October 24, 2016, Plaintiff Luis Miguel Lares Cutzal stipulated to the dismissal of all claims with prejudice against Defendants. The Court approved a settlement agreement between Plaintiff Moises Isaias Coxelca Suy and Defendants on January 27, 2017. (Doc. No. 46.) Currently, the only remaining Plaintiff in this action is Julio Lucas (“Lucas”).


On November 9, 2016, Plaintiffs’ counsel asked to withdraw as counsel for Lucas because of an inability to contact him “for many weeks.” (Doc. No. 43.) The Court relieved Michael Faillace & Associates, P.C. as counsel for Lucas on November 9, 2016. On February 8, 2017, the Court ordered Lucas to contact the Court by February 22, 2017, indicating whether he intended on continuing this action. (Doc. No. 48.) As of this date, the Court has not been contacted by Lucas.

Under Rule 41(b), Lucas has an obligation to diligently prosecute his case. *See Lyell Theatre Corp. v. Loews Corp.*, 682 F.2d 37, 43 (2d Cir. 1982); *see also Lucien v. Breweur*, 9

F.3d 26, 29 (7th Cir. 1993). Thus, “[c]ompletely aside from his failure to comply with the order, a dismissal is justified for [his] failure to prosecute at all.” *Chira v. Lockheed Aircraft Corp.*, 634 F.2d 664, 667 (2d Cir. 1980); *West v. City of New York*, 130 F.R.D. 522, 526 (S.D.N.Y. 1990).

Because Lucas has been unresponsive to the Court’s Order, Lucas’s claims are **DISMISSED WITHOUT PREJUDICE** for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

SO ORDERED this 4th day of April 2017.
New York, New York


The Honorable Ronald L. Ellis
United States Magistrate Judge