

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROBERT E. BROWN,

v.

**DECISION AND ORDER**  
13-CV-691S

UNITED STATES OF AMERICA,

Defendant.

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1. Presently before this Court is Defendant's motion to dismiss this case for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Defendant asserts that, despite several attempts at informal resolutions as well as a court order compelling compliance, Plaintiff has failed to provide the requested discovery demands for over five months. Plaintiff's counsel does not dispute this, but states that he has had difficulty locating and communicating with his client. Counsel therefore requests that Plaintiff be given additional time to comply with the outstanding discovery demands.

2. Defendant's motion to dismiss is granted. The initial discovery demands were made in January 2014. Plaintiff's counsel states that he or his staff spoke with Plaintiff on three occasions in April and May of this year, each time impressing upon Plaintiff "the serious consequences he faced with his case if he did not respond" to Defendant's discovery requests. (Rusin Decl ¶¶ 7-10, Docket No. 36.) Nonetheless, counsel has had no further contact with his client since May 30, 2014. Accordingly, even if an extension of time for the completion of discovery was otherwise warranted in this case, Plaintiff has clearly indicated an intent to abandon this action.

IT HEREBY IS ORDERED, that Defendant's motion to dismiss this action for lack of prosecution is GRANTED and the complaint is dismissed;

FURTHER, that the Clerk of the Court shall close this case.

SO ORDERED.

Dated: July 24, 2014  
Buffalo, New York

s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court