

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

Ron Tapley, on behalf of himself and )  
in the right of Tapley Unlimited, LLC, )  
an Oklahoma limited liability company, )  
 )  
Plaintiff,) )

v. )

Case No. 18-CV-165-GKF-FHM

ROBERT D. BUYSSE and MITCHELL )  
CLARK, )  
 )  
Defendants. )

**OPINION AND ORDER**

Defendant’s *Motion for Court to Order Sanctions as to Plaintiff’s in Accordance with Rule 37(b)(d)(i)*, (sic) [Dkt. 18], which seeks dismissal of Plaintiff’s case with prejudice as a sanction for Plaintiff’s alleged failure to appear at his deposition has been fully briefed and is ready for decision.

There is a dispute between counsel about whether the attorneys agreed that Plaintiffs would be deposed in this case on May 11, 2018. Plaintiff’s attorney says the May 11, 2108 depositions were only for pending state cases while Defendants’ attorney says the agreement included this case.

The court need not resolve the attorneys’ dispute because even if the agreement for the depositions included this case, Defendants’ motion for sanctions completely fails to discuss the relevant factors to support the request for dismissal with prejudice. *Ehrenhaus v. Reynolds*, 965 F.2d 916 (10th Cir. 1992).

Defendants' *Motion for Court to Order Sanctions as to Plaintiff's in Accordance with Rule 37(b)(d)(i)*, (sic) [Dkt. 18], is DENIED.

SO ORDERED this 26th day of June, 2018.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE