

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BOBBY DAVIS,

Plaintiff,

v.

**ILLINI STATE TRUCKING, CO.; ROB
BULT; WILBERT JACKSON; and
ALAN CERNICK,**

Defendants.

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Civil Action No. **3:17-CV-986-L**

ORDER

Before the court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 11), filed July 21, 2017; and the Joint Motion to Dismiss With Prejudice of Plaintiff Bobby Davis (“Davis”) and Defendant Illini State Trucking, Co. (“Illini”) (Doc. 12), filed July 24, 2017.

Davis filed this action under the Fair Labor Standards Act against Illini; Rob Bult (“Bult”); Wilbert Jackson (“Jackson”); and Alan Cernick (“Cernick”) on April 7, 2017. On July 3, 2017, the Honorable United States Magistrate Judge Irma Carrillo Ramirez noted that none of the defendants had made an appearance or otherwise responded, and that Davis had not requested entry of default or moved for default judgment pursuant to Federal Rule of Civil Procedure 55 (Doc. 10).

Judge Ramirez ordered Davis to show cause in writing by 5:00 p.m. on July 17, 2017, why he had not requested an entry of default or moved for default judgment. Judge Ramirez also warned Davis that failure to show cause could result in the dismissal of this action without prejudice and without further notice (Doc. 10).


Davis did not comply with Judge Ramirez's order. Judge Ramirez then issued her Report and recommended that the action be dismissed without prejudice for Davis's failure to respond to the show-cause order, as he failed to comply with a court order. After Judge Ramirez issued her Report on July 21, 2017, Davis and Illini filed the joint motion to dismiss.

Although Davis did not comply with the court order, he and Illini have settled their differences and resolved the matter between them. Accordingly, the court will grant the Joint Motion to Dismiss With Prejudice. As they have agreed to dismiss with prejudice, this will moot the Report's recommendation that the court dismiss this action without prejudice as to Davis and Illini.

With respect to the Report's recommendation regarding Plaintiff's claims against the other defendants, the court **accepts** the findings and conclusions of the magistrate judge as to Davis's claims against Bult, Jackson, and Cernick because Davis did not file a show-cause order as directed by Magistrate Judge Ramirez. As Davis did not respond to Judge Ramirez's order regarding the three individual Defendants, dismissal of this action without prejudice is appropriate. Accordingly, the court will accept the findings and conclusions of the magistrate judge and dismiss this action without prejudice regarding the claims Davis asserted against Bult, Jackson, and Cernick.

For the reasons herein set forth, the court **grants** the Joint Motion to Dismiss (Doc. 12) and **dismisses with prejudice** all claims asserted by Davis against Illini. Davis and Illini are to bear their own costs. The court **dismisses without prejudice** all claims asserted by Davis against Bult, Jackson, and Cernick. The court **directs** the clerk of court to close this action.

It is so ordered this 22nd day of August, 2017.


Sam A. Lindsay
United States District Judge