

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

HUSSEIN FAWAZ,

Plaintiff,

v.

GREGORY BYERS, *et al.*,

Defendants.

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CIVIL ACTION H-13-897

ORDER

Pending before the court is defendants John Stout and AMTEX Security, Inc.'s joint motion to dismiss. Dkt. 60. After considering the motion and the applicable law, the court is of the opinion that the motion should be GRANTED.

In this case, plaintiff Hussein Fawaz has consistently failed to follow the court's orders to appear for his deposition. On May 27, 2015, the court ordered that the parties mediate the case and that Fawaz appear for a deposition between August 1, 2015, and September 1, 2015. Dkt. 51. The parties agreed that mediation would occur on August 11, 2015, and that Fawaz's deposition would be taken the following day. Dkt. 52 at 2. On August 7, 2015, Fawaz cancelled the mediation and deposition. Dkt. 52, Ex. 2. On November 19, 2015, the court dismissed Fawaz's claims without prejudice for failure to prosecute his case and failure to comply with the court's May 27, 2015, order. Dkt. 55.


On December 17, 2015, Fawaz filed a motion asking the court to reconsider its dismissal of his case. Dkt. 56. On January 14, 2016, the court granted Fawaz's motion for reconsideration. Dkt. 59. The court reinstated the case on the condition that Fawaz appear for mediation and his

deposition between February 1, 2016, and March 15, 2016. Dkt. 59. The court warned that it would dismiss this case with prejudice if Fawaz failed to appear on the agreed upon dates. *Id.*

The parties agreed that mediation would occur on February 22, 2016, and that Fawaz's deposition would occur on the following day. Dkt. 60 at 2. On February 19, 2016, Fawaz cancelled the mediation and deposition. Dkt. 60, Ex. 1. On February 22, 2016, defendants John Stout and AMTEX Security, Inc. filed the pending joint motion to dismiss. Dkt. 60. The deadline to respond to the motion was March 14, 2016, and Fawaz has yet to respond.

Because Fawaz has failed to appear for mediation or his deposition in violation of the court's January 14, 2016 order, defendants' joint motion to dismiss (Dkt. 60) is GRANTED. Fawaz's claims are DISMISSED WITH PREJUDICE. A final judgment will issue consistent with this order.

Signed at Houston, Texas on March 29, 2016.



Gray H. Miller
United States District Judge