

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF KANSAS

RAY A. HERNANDEZ,  
Plaintiff,

Vs.

No. 04-4153-SAC

DONNIE GODWIN and  
SYSTEMS PAINTERS, INC.,

Defendants.

MEMORANDUM AND ORDER

On May 18, 2005, defendant Systems Painters, Inc., filed a motion to dismiss this case based on plaintiff's failure to appear for his properly noticed deposition. The court referred this motion to the United States Magistrate Judge for report and recommendation, since the motion sought the sanction of dismissal for alleged failure to cooperate in discovery and the Magistrate Judge was familiar with the progress of the case.

The Magistrate Judge filed a report and recommendation on November 4, 2005, recommending that the case be dismissed, and clearly stating the parties' right to file written objections to the recommendation within ten days. Ten days have passed and no written objections have been filed.

The court has reviewed the report and recommendation, as well as the

relevant pleadings in this case. Based upon this review and the absence of any filed objections, the court accepts the report and recommendation and adopts it as the ruling of this court.

IT IS THEREFORE ORDERED that defendant's motion to dismiss (Dk. 11) is granted.

Dated this 13th day of December, 2005, Topeka, Kansas.

s/ Sam A. Crow

Sam A. Crow, U.S. District Senior Judge