

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALBERT J. VERA,

Plaintiff,

vs.

DIANA BARRERA MULET, *et al.*,

Defendants.

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CIVIL ACTION NO. H-04-1116

ORDER

The district court has referred plaintiff's motion for sanctions (Dkt. 47) to this court for disposition and/or recommendation (Dkt. 101). Plaintiff seeks sanctions under Federal Rule of Civil Procedure 37(b)(2) based on defendant HISD's failure to produce insurance policies by the deadline ordered by this court. The decision whether to impose discovery sanctions pursuant to Rule 37 is within the court's discretion. *United States v. \$49,000 Currency*, 330 F.3d 371, 374 n.6 (5th Cir. 2003).

HISD produced the requested documents one day late, nonetheless plaintiff continues to seek attorneys' fees and denial of defendant's motion to dismiss as a sanction. There is no indication that HISD's slight delay in production of the insurance policies was intentional or caused plaintiff prejudice.

Therefore, plaintiff's motion for sanctions (Dkt. 47) is denied.

Signed at Houston, Texas on May 9, 2005.



Stephen Wm Smith
United States Magistrate Judge