

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

RUTH EASTER, PATRICIA MAYS, and
GWENDOLYN EDERINGTON,
individually and on behalf of a class of
similarly situated persons

PLAINTIFFS

VS.

CASE NO. 08-CV-1041

COMPUCREDIT CORPORATION,
VS FINANCIAL, LLC, and VS FINANCIAL
OF ARKANSAS, LLC d/b/a FIRST
AMERICAN CASH ADVANCE

DEFENDANTS

ORDER

Before the Court is Plaintiffs' Motion to Reconsider. (Doc. 30). Defendant VS of Arkansas, LLC responded. (Doc. 32). The Court finds the matter ripe for consideration.

BACKGROUND

This matter was removed to this Court on May 29, 2008. On July 25, 2008, Defendants Compucredit Corporation and VS Financial, LLC filed a Renewed Motion to Compel Arbitration, or in the Alternative to Dismiss the First Amended Complaint. (Doc. 16). Defendant VS of Arkansas, LLC also filed a Motion to Dismiss or Stay this Case and Compel Arbitration, or in the Alternative, to Dismiss for Failure to State a Claim. (Doc. 19). Plaintiffs responded to both of these motions with a single response. (Doc. 21). Defendants replied. (Doc. 23). The Court entered an Order, dated February 27, 2009, granting both Motions to Compel Arbitration and staying these proceedings pursuant to 9 U.S.C. section 3. (Doc. 29).

DISCUSSION

Plaintiffs seek reconsideration of the Court's Order pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. Defendant argues that Rule 54 is improper and instead that Rule 59(e) applies. Rule 54(b) provides that "when fewer than all claims are resolved, the district 'court may direct the entry of a final judgment as to one or more' claims or parties, but in the absence of such a direction, any other form of decision 'which adjudicates fewer than all the claims ... is subject to revision at any time before the entry of [final] judgment.'" *K.C. 1986 Ltd. Partnership v. Reade Mfg.*, 472 F.3d 1009, 1016-7 (8th Cir. 2007) (quoting Fed. R. Civ. P. 54(b)). A district court also has an inherent power to reconsider and modify an interlocutory order any time prior to the entry of judgment. *Id.* at 1017. Rule 59(e), however, is a motion to alter or amend a judgment. Fed. R. Civ. P. 59. A judgment is defined as "a decree and any order from which an appeal lies." Fed. R. Civ. P. 54. According to the Eighth Circuit, a district court's order compelling arbitration and staying a proceeding pursuant to section 3 or 4 of the Federal Arbitration Act is not appealable as a final judgment. *On Equity Sales Co. v. Pals*, 528 F.3d 564, 568 (8th Cir. 2008). Thus, the Court's Order at issue is not a final judgment because it stayed these proceedings as to all parties rather than dismissing them.¹ Consequently, the Court will consider the Plaintiffs' Motion to Reconsider pursuant to Rule 54. Under Rule 54, the Court will only amend its order to correct clear or manifest errors of fact or law. *Doctor John's Inc. v. City of Sioux City, Iowa*, 456 F.Supp.2d 1074, 1076 (N.D. Iowa 2006).

¹In its Brief in Opposition to Plaintiffs' Motion to Reconsider, Defendant VS of Arkansas, LLC states, in footnote 1, that the Court's Order and Memorandum Opinion dismissed the case against VS of Arkansas, CompuCredit Corporation and VS Financial, LLC and compelled only CompuCredit and VS Financial to arbitration. VS of Arkansas misreads the Court's Order and Memorandum Opinion. The Court did not dismiss any party or claim. Instead, the Court compelled all claims to arbitration and stayed this litigation pending arbitration pursuant to 9 U.S.C. section 3.

After reviewing Plaintiffs' motion, the Court does not believe that Plaintiffs' arguments point to a manifest error of law or fact that would justify amending or altering its prior ruling. Therefore, Plaintiffs' Motion to Reconsider should be and hereby is **DENIED**.

IT IS SO ORDERED, this 7th day of May 2009.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge