

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 12-cv-02987-RM-MJW

BUCK HOWARD, individually and on behalf of all others similarly situated, and
PAT MARTIN, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

J&A SERVICES, L.L.C.,
TEXAS J&A SERVICE, L.L.C.,
JAMES WHITELY, and
ANN MARIE WHITELY,

Defendants.

ORDER

THIS MATTER is before the Court on the parties' Joint Motion for Dismissal without Prejudice ("Joint Motion") (ECF No. 88) as to Mark Turner, an Opt-In Plaintiff in the above-captioned matter. On March 6, 2014, the Court held a hearing regarding this Joint Motion and other matters. At the hearing, Plaintiffs' counsel supplemented the Joint Motion by advising the Court that, as counsel for Mr. Turner, it is his understanding and belief based on Mr. Turner's unresponsiveness to all inquiries from counsel that Mr. Turner has abandoned this litigation and, accordingly, counsel seeks dismissal of Mr. Turner as well. Also during the hearing, the parties agreed to the following:

1. The dismissal, without prejudice, of Mr. Turner with leave to refile his claims
individually against Defendants;

2. If Mr. Turner files a new lawsuit against Defendants within 60 days of the date of this Order, Defendants will treat Mr. Turner's claims as if they had been filed on November 27, 2012, which was the date his consent to join this lawsuit was filed with the Court; and
3. Plaintiffs' counsel shall serve on Mr. Turner, by mail at this last known address and by email, a copy of this Order and written notification of his dismissal and leave to refile. Such service shall be made at the following times: (i) upon receipt of the Order; (ii) 20 days of the date of this Order; and (iii) 40 days of the date of this Order. Plaintiffs' counsel shall file a certificate of compliance with the Court after the last service on Mr. Turner.

Upon consideration of the Joint Motion, as modified by the parties' agreement on the record before the Court, and being otherwise fully advised in the premises, it is

ORDERED as follows:

1. The parties' Joint Motion (ECF No. 88) is GRANTED pursuant to the parties' request and agreement as stated herein and Opt-In Plaintiff Mark Turner is hereby dismissed from this action without prejudice;
2. Plaintiffs' counsel shall serve on Mr. Turner, by mail at this last known address and by email, a copy of this Order and written notification of his dismissal and leave to refile. Such service shall be made at the following times: (i) upon receipt of the Order; (ii) 20 days of the date of this Order; and (iii) 40 days of the date of this Order; and

3. Plaintiffs' counsel shall file a certificate of compliance with the Court after the last service on Mark Turner ordered in paragraph 2 above.

DATED this 6th day of March, 2014.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Raymond P. Moore', is written over a horizontal line.

RAYMOND P. MOORE
United States District Judge