

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

LENA HARDAWAY,

Plaintiff,

v.

CROSS STATE MOVING, et al.,

Defendants.

Civil Action No. 14-405
RJL/DAR

MEMORANDUM OPINION AND ORDER

This action was referred to the undersigned United States Magistrate Judge for full case management. *See* Referral Order (Document No. 26).¹ Pending for consideration by the undersigned is Defendant Dostekam's Motion to Dismiss for lack of subject matter jurisdiction and because the moving contract "waive[d] the Court's jurisdiction in favor of arbitration." *See* Motion to Dismiss (Document No. 41) at 1. The assigned District Judge and the undersigned Magistrate Judge have entered orders denying Plaintiff's Motion to Recuse (Document No. 43). *See* Order (Document No. 48); 05/09/2016 Minute Order. Plaintiff has appealed the undersigned's order denying her Motion to Recuse. *See* Notice of Interlocutory Appeal (Document No. 50). Said appeal remains pending.

Upon consideration of the motion, the memoranda in support thereof and the opposition thereto, and the entire record herein, including the pendency of the appeal, the undersigned will deny Defendant Dostekam's motion without prejudice.²

¹The undersigned advised *pro se* Plaintiff of her obligations under the Federal Rules of Civil Procedure and the rules of this Court, in accordance with the dictates of this Circuit. *See* Order (Document No. 38).

² The undersigned is mindful that Local Civil Rules 72.2, 72.3, and 73.1 generally preclude the determination by a Magistrate Judge of a motion to dismiss absent the consent of the parties. The undersigned finds, however, that these rules do not preclude the denial of the pending motion without prejudice in the context of this case. Such action is but an interim measure based on the pending appeal of this Court's order denying Plaintiff's Motion to

It is therefore, this 6th day of September, 2016,

ORDERED that Defendant's Motion to Dismiss (Document No. 41) is hereby **DENIED**
WITHOUT PREJUDICE.

/s/
DEBORAH A. ROBINSON
United States Magistrate Judge

Recuse. Should the Plaintiff prevail on her appeal, the undersigned would be precluded from consideration of the merits of the Defendant's motion.