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Clerk, U.S. District Court, ILCD

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION**

JOE HAND PRODUCTIONS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 09-cv-1419
	)	
TROY A. DUEDE and TROY DUEDE	)	
ENTERPRISES, INC.,	)	
	)	
Defendants.	)	

**ORDER & OPINION**

This matter is before the Court on Plaintiff's Motion to Vacate Order and Opinion of June 24, 2010. (Doc. 9). For the reasons stated below, the Motion is granted, and this matter is dismissed without prejudice as settled under Local Rule 16.1(C).

On June 24, 2010, the Court entered an Order adopting the Report & Recommendation ("R&R") of Magistrate Judge Cudmore that this matter be dismissed for failure to prosecute, as Plaintiff had failed to serve Defendants and had failed to respond to the Court's order to show cause why the case should not be dismissed. (Doc. 7). As Plaintiff did not enter an objection to the R&R, and the deadline for such objections had passed, the Court adopted the R&R and dismissed the matter with prejudice for failure to prosecute.

On June 29, 2010, Plaintiff filed the instant Motion to Vacate the Court's June 24, 2010 Order. (Doc. 9). Plaintiff is currently a party to a separate case before the Court against the same Defendants, case number 09-cv-1320. In its

Motion to Vacate, Plaintiff explains that, due to an inadvertent docketing error on its or its attorney's part, the Court's orders relating to the R&R were filed under case number 09-cv-1320, and that it thus believed that the R&R was resolved.<sup>1</sup> As Plaintiff's failure to respond to the R&R was apparently inadvertent, the Court, in its discretion, will vacate its order adopting the R&R and the resulting judgment.

Plaintiff also reports that this matter is settled. Under Local Rule 16.1(C), "[w]hen a party reports to the court that a civil action is settled, the presiding judge will enter an order dismissing the case without prejudice as settled, with leave to reopen within 35 days if the settlement is not finalized." As Plaintiff reports that this matter is settled, the Court hereby dismisses this matter without prejudice, with leave to reopen within 35 days of the date of this Order.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Vacate (Doc. 9) is GRANTED. The Court's Order & Opinion of June 25, 2010 (Doc. 7) and the judgment entered on June 25, 2010 (Doc. 8) are VACATED. This matter is DISMISSED WITHOUT PREJUDICE as settled, and the Court GRANTS leave to reopen the matter within 35 days of the date of this Order if settlement is not finalized. Plaintiff SHALL file settlement documents with the Court within 35 days of the date of this Order.

Entered this 1st day of July, 2010.

s/ Joe B. McDade  
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JOE BILLY McDADE  
United States Senior District Judge

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<sup>1</sup> As no erroneous filings appear in either case's court docket, the Court assumes that Plaintiff is stating that these matters were misfiled in its or its attorney's office, not in the Court.