

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EDMUND AWAH	:	
	:	
v.	:	Civil Action No. DKC 13-0706
	:	
CAPITAL ONE BANK	:	

MEMORANDUM OPINION

Both *pro se* Plaintiff Edmund Awah and Defendant Capital One Bank have filed separate motions to dismiss in this case brought under the Fair Debt Collection Practices Act ("FDCPA"). 15 U.S.C. § 1692 *et seq.* On July 1, 2013, Defendant moved to dismiss with prejudice for failure to state a claim, arguing that based on the face of Plaintiff's complaint, Capital One Bank is a "creditor" and not a "debt collector" and therefore outside the FDCPA's liability coverage. (ECF No. 8). On August 22, 2013, Plaintiff moved to dismiss this case, writing that "[t]he matter will now be filed in state court as the federal court is not the appropriate forum." (ECF No. 13). Defendant had until September 9, 2013 to respond to this motion and has not done so.

Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that "the plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party

serves either an answer or a motion for summary judgment." Defendant has not served either an answer or motion for summary judgment. As Plaintiff's notice does not state otherwise, this dismissal is without prejudice. Fed.R.Civ.Pro. 41(a)(1)(B).

Accordingly, Plaintiff's motion will be granted and the case shall be dismissed without prejudice. A separate order will follow.

/s/

DEBORAH K. CHASANOW
United States District Judge