

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARK ROBINSON,)
)
 Plaintiff,) 4:10CV3093
)
 v.)
)
 YOUR COLLECTION SOLUTION,) MEMORANDUM AND ORDER
 INC.,)
)
 Defendant.)

The plaintiff has filed a notice of voluntary dismissal pursuant to settlement, (filing no. 7). The plaintiff requests dismissal without prejudice with the right to reinstate the case within the next forty-five (45) days, and if a motion to reinstate is not filed within the next forty-five (45) days, an automatic conversion of the voluntary dismissal without prejudice to a dismissal with prejudice. Filing No. 7, ¶ 4. Contrary to the plaintiff's request, if the court orders dismissal, the case cannot be reinstated unless the plaintiff re-files the lawsuit and pays the requisite filing fee. Moreover, this court has no mechanism for automatically converting a dismissal without prejudice to a dismissal with prejudice. Accordingly, in an effort to accommodate the apparent intent of the parties' settlement,

IT IS ORDERED:

- 1) The clerk erroneously dismissed this case pursuant to the parties' notice of dismissal. The clerk shall reopen the case.
- 2) Within **forty-five (45)** calendar days from the date of this order, the parties shall file a joint stipulation for dismissal (or other dispositive stipulation) with the clerk of the court, and shall submit to the undersigned magistrate judge at zwart@ned.uscourts.gov a proposed order (in MS Word or Word Perfect format) which will fully dispose of the case.
- 3) Absent the timely filing of a joint stipulation for dismissal, or a motion filed within the next forty-five (45) days stating dismissal is no longer appropriate,

this case (including all counterclaims and the like) may be dismissed without prejudice and without further notice.

- 4) The plaintiff shall serve a copy of this order on the defendant and/or defendant's counsel and shall file a certificate of service in accordance with [NECivR 5.4](#) stating he has done so.

DATED this 9th day of June, 2010.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge