UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

ROBERT A. ACEVEZ,

Plaintiff,

v.

ALDERWOODS GROUP, INC., and ALDERWOODS GROUP LLC,

Defendants.

2:11-CV-326-JD-PRC

2:11CV1436

ORDER

This case was transferred to this Court on September 6, 2011 from the Northern District of California [DE 328]. The subject of the litigation is a wage and hour dispute brought by current and former employees of defendant Alderwoods Group, Inc., a provider of funerary services. The origin of this dispute begins with a collective action suit filed in December 2006 in the Western District of Pennsylvania, *Prise v. Alderwoods Group, Inc.*, No. 06-1641. That case, which is still pending in that district before Judge Joy Flowers Conti, originally included federal claims under the FLSA and state law claims – including those asserted by Acevez as an opt-in plaintiff in that action – against Alderwoods and other entities [DE 1 & 139 in 2:06-CV-1641].

Judge Conti declined to exercise supplemental jurisdiction over the plaintiffs' state law claims. And the dismissal of those claims resulted in the filing of a putative class action complaint, in California state court, alleging several state law wage and hour claims against Alderwoods. On February 27, 2008, the California state law case was removed to the Northern District of California, before Judge Susan Illston, No 3:08-1184, on the basis of the district court's diversity jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d) [DE 1 in 3:08-CV-1184].

On December 29, 2009, Judge Illston denied plaintiffs' first motion for class certification [DE 230 in 3:08-CV-1184]; and, on March 9, 2011, she denied plaintiffs' renewed motion for class certification [DE 294 in 3:08-CV-1184].

On July 18, 2011, Judge Illston granted Alderwoods' motion to sever the claims of each of the 86 plaintiffs named in the caption of that case, including Acevez, and transfer the claims of those plaintiffs who do not reside in the Northern District of California to the federal district courts where those plaintiffs reside [DE 315 in 3:08-cv-1184]. The lead plaintiff in the case before Judge Illston—William Helm, a Northern District of California resident—was ordered to file an amended complaint, which is now the operative complaint in the docket transferred to this Court [DE 324].

Helm's claims, though, are obviously not before this Court. Robert Acevez, one of the two plaintiffs whose severed claims were transferred to this District, has not yet filed a complaint. (The other plaintiff whose claims were transferred here, Jeffrey Sachs, also has not yet filed a complaint; his case is currently pending before Judge Simon, No. 2:11-CV-327.) The first order of business, then, is to determine whether Acevez wishes to pursue his individual state law claims before this Court.

As the court has noted, Acevez was one of the opt-in plaintiffs in the collective action suit filed in the Western District of Pennsylvania before Judge Conti. And, up until recently, his federal claims against Alderwoods were still pending in that case. However, on September 9, 2011, just days after this case was transferred to this court, Judge Conti granted Alderwoods' motion to decertify the conditionally certified collective action in that case, and dismissed the opt-in plaintiffs in that action, including Acevez, without prejudice [DE 1637 in 2:06-CV-1641]. So, in addition to his state law claims, Acevez may also wish to pursue his individual federal claims here. The Court,

however, expresses no opinion as to whether it has jurisdiction over those claims.

Accordingly, the Court **GRANTS LEAVE** to Robert Acevez to file his individual claims against Defendants by or before **October 14, 2011.** If Acevez declines to file by this date, the Court will **DISMISS** this case **WITHOUT PREJUDICE.**

SO ORDERED.

DATED: September 16, 2011

/s/ JON E. DEGUILIO
Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Danville Division

STROTHER FULCHER,	)	
	)	
Plaintiff,	)	Case No. 4:11-cv-00038
	)	
v.	)	**ORDER**
	)	
ALDERWOODS GROUP, INC.,	)	By: Jackson L. Kiser
	)	Senior United States District Judge
Defendant.	)	

ORDER STAYING PROCEEDINGS

This matter was transferred to this Court from the United States District Court for the Northern District of California. [See ECF No. 328.] Upon receipt of the case from the Northern District of California, I ordered the Plaintiff to file an Amended Complaint within twenty-one days from the date of my Order accepting the case for transfer. [ECF No. 329.] Plaintiff's counsel advised me that alternative remedies are being pursued and, upon his informal request and over the objection of Defendant's counsel [see ECF No. 330], I hereby **STAY** the proceedings in this case. The Plaintiff is directed to notify both the Defendant and the Court of his intention to proceed with his claims within **sixty (60) days** of the date of this Order. Plaintiff's failure to do so will result in dismissal of his claims with prejudice.

The Clerk is hereby directed to forward a copy of this Order to Plaintiff, Plaintiff's counsel from the prior action and counsel of record for Defendant.

Entered this 22nd day of September, 2011.

s/Jackson L. Kiser
Senior United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Danville Division

JERRY TAWNEY,	)	
	)	
Plaintiff,	)	Case No. 4:11-cv-00039
	)	
v.	)	**ORDER**
	)	
ALDERWOODS GROUP, INC.,	)	By: Jackson L. Kiser
	)	Senior United States District Judge
Defendant.	)	

ORDER STAYING PROCEEDINGS

This matter was transferred to this Court from the United States District Court for the Northern District of California. [See ECF No. 328.] Upon receipt of the case from the Northern District of California, I ordered the Plaintiff to file an Amended Complaint within twenty-one days from the date of my Order accepting the case for transfer. [ECF No. 329.] Plaintiff's counsel advised me that alternative remedies are being pursued and, upon his informal request and over the objection of Defendant's counsel [see ECF No. 330], I hereby **STAY** the proceedings in this case. The Plaintiff is directed to notify both the Defendant and the Court of his intention to proceed with his claims within **sixty (60) days** of the date of this Order. Plaintiff's failure to do so will result in dismissal of his claims with prejudice.

The Clerk is hereby directed to forward a copy of this Order to Plaintiff, Plaintiff's counsel from the prior action and counsel of record for Defendant.

Entered this 22nd day of September, 2011.

s/Jackson L. Kiser
Senior United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Danville Division

DAVID WYATT,	)	
	)	
Plaintiff,	)	Case No. 4:11-cv-00040
	)	
v.	)	**ORDER**
	)	
ALDERWOODS GROUP, INC.,	)	By: Jackson L. Kiser
	)	Senior United States District Judge
Defendant.	)	

ORDER STAYING PROCEEDINGS

This matter was transferred to this Court from the United States District Court for the Northern District of California. [See ECF No. 328.] Upon receipt of the case from the Northern District of California, I ordered the Plaintiff to file an Amended Complaint within twenty-one days from the date of my Order accepting the case for transfer. [ECF No. 329.] Plaintiff's counsel advised me that alternative remedies are being pursued and, upon his informal request and over the objection of Defendant's counsel [see ECF No. 330], I hereby **STAY** the proceedings in this case. The Plaintiff is directed to notify both the Defendant and the Court of his intention to proceed with his claims within **sixty (60) days** of the date of this Order. Plaintiff's failure to do so will result in dismissal of his claims with prejudice.

The Clerk is hereby directed to forward a copy of this Order to Plaintiff, Plaintiff's counsel from the prior action and counsel of record for Defendant.

Entered this 22nd day of September, 2011.

s/Jackson L. Kiser
Senior United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-23190-CIV-ALTONAGA/Simonton

WILLIAM HELM, *et al.*,

Plaintiffs,

vs.

ALDERWOODS GROUP, INC., *et al.*,

Defendants.
_____/

ORDER ADMINISTRATIVELY CLOSING CASE

THIS CAUSE came before the Court at a September 16, 2011 status conference hearing. (*See* [ECF No. 330]). For the reasons stated in open court, it is

ORDERED AND ADJUDGED that the above-styled action is administratively **CLOSED** without prejudice to the Plaintiffs to notify Defendants of their intention to proceed with this suit within **one hundred and twenty (120) days** of the date of this Order. Plaintiffs' failure to do so will result in an order of dismissal of their claims with prejudice. Any pending motions are **DENIED as moot**.

DONE AND ORDERED in Chambers at Miami, Florida, this 16th day of September, 2011.

Cecilia M. Altonaga
CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record