

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ADRIEN LOGISTICS LLC *and*  
PROGRESSIVE PREFERRED INS. CO.,

*Plaintiffs,*

v.

CERTAIN UNDERWRITERS AT LLOYD'S,  
LONDON SUBSCRIBING TO POLICY  
NUMBER Z178311-007NTL,

*Defendant.*

**ORDER**

22-cv-3002 (ER)

RAMOS, D.J.

This insurance case was removed from New York state court on April 12, 2022. Doc. 1. On April 15, 2022, Defendant answered and counterclaimed against Adrien Logistics LLC (“Adrien”) (Doc. 4), and Adrien answered the counterclaim on May 24, 2022 (Doc. 10). Defendant also filed a third-party complaint against Knight Refrigerated Transport, LLC (“Knight”) (Doc. 6), which Progressive Preferred Insurance Company (“Progressive”), Knight’s insurer, successfully moved to dismiss as an intervenor-plaintiff (Docs. 21, 32).

At subsequent case management conferences, Progressive stated its intention to withdraw as a co-plaintiff, and Adrien’s counsel, Thomas D. Flinn, sought to withdraw as counsel. The Court granted Flinn’s request to withdraw on April 19, 2023 and “directed [Adrien] to retain new counsel by no later than May 19, 2023,” noting that its failure to do so “may result in adverse action, including dismissal of this case for failure to prosecute.” Doc. 36. By July 14, 2023, no counsel had entered a notice of appearance for Adrien, and the Court ordered Adrien to appear at a telephonic conference on August 3, 2023 “so that it may show cause why the Court should not dismiss this case pursuant to Federal Rule of Civil Procedure 41 for failure to prosecute.” Doc.

38. Adrien failed to appear at the August 3, 2023 conference, has not had counsel enter an appearance, nor had any other communication with the Court.

The Court therefore dismissed with prejudice Adrien's claims for failure to prosecute under Federal Rule of Civil Procedure 41(b) on August 3, 2023. Doc. 42. But Defendant had indicated that it intended to proceed with its declaratory judgment counterclaim expeditiously, and the Court therefore declined to close the case in its entirety to permit Defendant to pursue the counterclaim. *Id.*

Progressive dismissed all its claims on August 7, 2023. Doc. 44. The only remaining claim in the instant case therefore is Adrien's counterclaim for declaratory judgment.

In the last nine months, however, Adrien has taken no steps to pursue its counterclaim. Adrien is therefore instructed to submit a status report by no later than May 31, 2024. Failure to do so may result in a dismissal of the counterclaim for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

It is SO ORDERED.

Dated: May 10, 2024  
New York, New York



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Edgardo Ramos, U.S.D.J.