

dismissal; and (4) the present stage of the litigation. *Gross v. Spies*, 133 F.3d 914, 1998 WL 8006, at *5 (4th Cir. Jan. 13, 1998). These factors are not exclusive, however, and any other relevant factors should be considered depending on the circumstances of the case. *Id.*

Here, the Court finds that dismissal without prejudice is appropriate. This action was commenced as a foreclosure proceeding before the Clerk of Superior Court of North Carolina. No answer is permitted, N.C. Gen Stat. §45-21.16, and accordingly defendant has no claims or counterclaims pending, nor has either party put forth considerable effort or expense in preparing for a trial. The parties have signed a loan modification that resolves the default and moots the basis for seeking foreclosure. [DE 11-3]. Plaintiff promptly filed the instant motion to dismiss the day the loan modification agreement was executed. No claims are pending arising from the acceptance of the loan modification agreement or the terms thereof. Although defendant appears to be unhappy with plaintiff's actions, defendant's arguments in opposition to dismissal are unrelated to the claims at issue in this case.

Accordingly, the Court finds no substantial prejudice to defendant and thus GRANTS plaintiff's motion to dismiss this action without prejudice. [DE 11]. The clerk is DIRECTED to enter judgment accordingly.

SO ORDERED, this 6 day of February, 2015.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE