

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 2:11-cv-00026-MR-DLH**

ROBERT STEWART, an individual,)
and others similarly situated,)
))
))
Plaintiff,)
))
vs.)
))
LEGAL HELPERS DEBT)
RESOLUTION, LLC, et al.,)
))
Defendants.)
))

ORDER

THIS MATTER is before the Court *sua sponte*.

On January 16, 2014, the Honorable Dennis L. Howell, United States Magistrate Judge, entered an Order granting the Defendants until March 7, 2014, to file a motion to dismiss the Plaintiff’s class claims. [Doc. 75]. On March 3, 2014, the Defendants filed a Status Report advising that counsel for the Plaintiff would file a voluntary dismissal as to the class claims no later than March 7, 2014. In light of this information, the Defendants advised that they would refrain from filing a motion to dismiss the alleged class claims. [Doc. 76]. To date, however, the Plaintiff has not filed any dismissal of the alleged class claims, nor has the Defendants moved to dismiss such claims.

Additionally, in June 2013, the Magistrate Judge entered an Order allowing counsel to withdraw from representing all of the Defendants. [Doc. 59]. While defense counsel subsequently made a notice of appearance on behalf of Defendants Legal Helpers Debt Resolution, PLLC, Macey, Aleman, Hyslip & Searns, Jeffrey Hyslip, and Linda Carol, no counsel has ever made an appearance on behalf of Defendant CDS Client Services, Inc. As a corporate entity, CDS Client Services, Inc. cannot proceed *pro se* in this matter. Gilley v. Shoffner, 345 F.Supp.2d 563, 566 (M.D.N.C. 2004).

This case proceeded to arbitration in April 2013 between the Plaintiff and CDS Client Services, Inc. only.¹ An arbitration award was subsequently entered in favor of the Plaintiff.

In November 2013, the Plaintiff filed a motion to re-open the case for the purpose of confirming the arbitration award. [Doc. 70]. That motion was granted, and the case was re-opened. [Doc. 73]. To date, however, the Plaintiff has not filed a motion to confirm the arbitration award with respect to his individual claims against CDS Client Services, Inc.²

¹ CDS Client Services, Inc. was represented at arbitration by William R. Mitchell, Esq. of William R. Mitchell, Inc.

² In support of the Motion to Re-open, the Plaintiff filed a "Brief in Support of Motion for Confirmation of Arbitration Award" [Doc. 71], thus indicating that the Plaintiff may have intended his motion to be one seeking both a re-opening of the case and a confirmation of the arbitration award. That intention, however, was not evident on the face of the motion, and therefore the Magistrate Judge did not address the confirmation of the arbitration award in granting the Plaintiff's motion and re-opening the case.

In light of the foregoing, the Court enters the following Order.

IT IS, THEREFORE, ORDERED that within fourteen (14) days of the entry of this Order, the Plaintiff shall file a notice of dismissal with respect to the alleged class claims. **Failure to file a notice of dismissal within the time required will result in the dismissal of such claims by the Court.**

IT IS FURTHER ORDERED that within fourteen (14) days of the entry of this Order, the Defendant CDS Client Services, Inc. shall file a notice of appearance of counsel. **Failure to file a notice of appearance within the time required will result in the entry of default against this Defendant.**

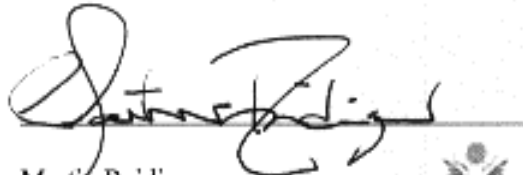
IT IS FURTHER ORDERED that within twenty-one (21) days of the entry of this Order, the Plaintiff shall file an appropriate motion, either seeking an entry of default or seeking confirmation of the arbitration award, with respect to his individual claims against CDS Client Services, Inc. **Failure to take any further appropriate action within the time required will result in the dismissal of the Plaintiff's action against this Defendant.**

The Court **DIRECTS** the Clerk to mail a copy of this Order to the last known address of Defendant CDS Client Services as set forth below:

CDS c/o William R. Mitchell, Esq
Logan & Retoske, LLP
31351 Rancho Viejo Road
Suite 202
San Juan Capistrano, CA 92675

IT IS SO ORDERED.

Signed: May 8, 2014


Martin Reidinger
United States District Judge

