

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 3:16-cv-817

KRAFT FOODS GLOBAL, INC., AS)
PLAN SPONSOR, ADMINISTRATOR)
AND FIDUCIARY OF THE KRAFT)
FOODS GLOBAL, INC. GROUP)
BENEFITS PLAN)

Plaintiff,)

v.)

ROBERTA MCCULLUM, MICHAEL)
A. DEMAYO and THE LAW OFFICES)
OF MICHAEL A. DEMAYO L.L.P,)

Defendants.)

ORDER

THIS MATTER is before the Court on the status of this case. Plaintiff filed this case on November 28, 2016, (Doc. No. 1), along with a Motion for Temporary Restraining Order and Preliminary Injunction (Doc. No. 2). The Court held a hearing on the motion on December 6, 2016, (Doc. No. 8), where a representative for Michael A. DeMayo and The Law Offices of Michael A. DeMayo appeared. Following the hearing and on that same day, the Court issued a Temporary Restraining Order and Preliminary Injunction (Doc. No. 9), noting that the preliminary injunction would continue until Defendant “McCullum can be located and served, and until Defendants Michael A. DeMayo and The Law Offices of Michael A. DeMayo obtain legal counsel.” (Doc. No. 9., p. 2). Since that time, Plaintiffs have not filed proof of service, no Defendant has filed a pleading in response to the Complaint, or otherwise

“[A] district court possesses the ‘inherent power’ to dismiss a case *sua sponte* for failure to prosecute[.] . . . [S]uch authority derives from ‘the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.’” Eriline Co.,

S.A. v. Johnson, 440 F.3d 648, 654 (4th Cir. 2006) (quoting Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962)). Furthermore, “[A]side from the interests of the individual parties in a lawsuit, a district court has an important interest in keeping its docket from becoming clogged with dormant cases” Erline Co., 440 F.3d at 654. In addition to the relief available under Rule 55 for entry of default and default judgment, Rule 41(b) of the Federal Rules of Civil Procedure permits an involuntary dismissal for failure to prosecute a case.

IT IS THEREFORE ORDERED that the parties are hereby directed to SHOW CAUSE why this case should not be dismissed and/or default judgment entered in this matter. Such response should be filed no later than fourteen (14) days from the date of this Order.

IT IS SO ORDERED.

Signed: January 31, 2017

A handwritten signature in black ink, appearing to read "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

