

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:09-CV-00084-RLV-DSC**

ESTES EXPRESS LINES, INC.,)
)
 Plaintiff,)
)
 v.)
)
CARPENTER DECORATING)
COMPANY, INC., et al.,)
)
 Defendants.)
_____)

ORDER

THIS MATTER is before the Court sua sponte concerning Plaintiff’s failure to prosecute its claim.

On July 22, 2009, Plaintiff Estes Express Lines, Inc., filed its Complaint against Defendants Carpenter Decorating Company, Inc., Doe Corporations 1–10, and John Does 1–10, alleging causes of action arising from unpaid freight charges. (Doc. 1.) On April 25, 2011, Plaintiff filed a Motion for Entry of Default against Defendant Carpenter Decorating Company (Doc. 10) and Notice of Voluntary Dismissal as to Doe Corporations 1–10 and John Does 1–10 (Doc. 11). The following day, the Clerk of Court entered default as to Carpenter Decorating Company, and the remaining Defendants were terminated. Nearly thirteen months later, the Clerk instructed Plaintiff to file either a motion for default judgment or a status report. Plaintiff has yet to respond.

“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious

disposition of cases.” *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (upholding, in the face of a due process challenge, the practice of dismissing an action, without notice and an opportunity to be heard, for want of prosecution). The Court, declining to dismiss immediately this case in the absence of notice that dismissal is contemplated, here provides Plaintiff with such notice. Plaintiff has two weeks from the date this order is filed to submit a motion for default judgment or status report. Should Plaintiff fail to comply with this directive, this case will be dismissed with prejudice.

Signed: June 14, 2012

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the name.

Richard L. Voorhees
United States District Judge

