IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

NTCH-WEST TENN, INC.,

Plaintiff,

v. No. 1:11-cv-01169-JDB-egb

ZTE USA, INC.,

Defendant.

ORDER DENYING MOTIONS WITHOUT PREJUDICE

Introduction

Before the Court is Plaintiff, NTCH-West Tenn, Inc.'s ("NTCH"), motion to vacate the arbitrator's award and Defendant, ZTE USA, Inc.'s ("ZTE"), cross-motion to confirm the arbitrator's award. (Docket Entries ("D.E.") 112, 123.) For the reasons discussed below, both motions are DENIED WITHOUT PREJUDICE.

Background & Analysis

This matter, originally brought on April 25, 2011 in the Chancery Court of Madison County, Tennessee, was removed to this Court on June 13, 2011 based on diversity of citizenship. (D.E. 1.) The parties engaged in substantial pre-trial motion practice, including two motions by ZTE to compel arbitration pursuant to the Federal Arbitration Act ("FAA"), 9 U.S.C. § 4. (D.E. 8, 47.) On December 9, 2011, the parties agreed to consolidate and arbitrate their outstanding claims with the American Arbitration Association in Jacksonville, Florida. (D.E. 47-10.) Based on that agreement, the Court accepted the Magistrate Judge's report and recommendation granting Defendant's second motion to compel arbitration. (D.E. 100.)

On February 11, 2014, the arbitrator issued a final award dismissing all claims against ZTE. (D.E. 113 at 16–17.) On the same date, ZTE moved to confirm the award and join all the outstanding parties in a pending matter between it and PTA-FLA, Inc. ("PTA"), an affiliate of NTCH, in the United States District Court for the Middle District of Florida. (D.E. 116-1.) On April 1, 2014, PTA filed a notice voluntarily dismissing its claims against ZTE. (D.E. 117-1.) On December 16, 2014, Judge Timothy J. Corrigan issued an order dismissing PTA's claims, joining the parties, and directing them to brief the issues of personal jurisdiction and service of process before he ruled on ZTE's motion to confirm the award. (D.E. 135-1 at 12–14.)

On March 13, 2014, NTCH filed a motion to vacate the arbitration award in this Court. (D.E. 112.) In its March 31, 2014 response, ZTE requested a temporary stay until the Florida district court ruled on its motion. (D.E. 116.) The Court granted that request and entered a stay on September 9, 2014. (D.E. 134.) The Court now finds it necessary to deny both parties' motions, without prejudice, pending a final ruling on ZTE's motion currently before Judge Corrigan. *See Graham v. Fin. Educ. Servs., Inc.*, No. 10-12227, 2011 WL 4505942, at *2–3 (E.D. Mich. Sept. 29, 2011) (denying a defendant's motion to dismiss without prejudice, but with permission to renew, pending a ruling from the United States Supreme Court that would "provide a definitive decision" in deciding the defendant's motion).

Conclusion

The parties' motions are denied without prejudice. Either party may file a motion to renew their respective motion following a decision from the United States District Court for the Middle District of Florida on ZTE's motion to confirm the arbitration award.

IT IS SO ORDERED this 13th day of March, 2015.

s/ J. DANIEL BREEN
CHIEF UNITED STATES DISTRICT JUDGE