

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRILLIANT DPI INC.,

Plaintiff,

v.

Case No. 18-CV-799

KONICA MINOLTA BUSINESS SOLUTIONS, U.S.A., INC., et al.,

Defendants.

ORDER

On March 3, 2022, the court granted the parties' stipulated motion for dismissal and dismissed this action. In doing so, the court stated, "Pursuant to the terms of the Settlement Agreement between the parties, CIT Technology Financing Services, Inc. (n/k/a CIT Technology Financing Services, LLC) shall have the right to reopen this action and obtain entry of a stipulated judgment (as defined in paragraphs 2-3 of the Settlement Agreement)." (ECF No. 136.)

On August 23, 2023, CIT Technology Financing Services, LLC filed a motion alleging that Brilliant DPI breached the settlement agreement by failing to make monthly payments. That assertion was not supported by any affidavit or other

evidence. CIT also asks the court to reopen the case and substitute it for its predecessor, CIT Technology Financing Services, Inc.

The court ordered Brilliant DPI to respond to the motion by September 13, 2023. The court also ordered CIT Technology Financing Services, LLC to identify by September 13, 2023, its citizenship and prove that complete diversity of citizenship would remain if the court substituted it for CIT Technology Financing Services, Inc.

Neither side complied with the court's order, and so the court on September 26, 2023, denied CIT Technology Financing Services, Inc.'s motion. (ECF No. 143.)

On October 4, 2023, CIT Technology Financing Services Inc. filed a renewed motion. (ECF No. 144.) Counsel for CIT Technology Financing Services Inc., James J. Kriva, explains that he did not receive notice of the court's orders. (ECF No. 145.) Apparently unbeknownst to him, he had been terminated as attorney of record on the docket back on November 14, 2018, when successor counsel stated he was appearing in Attorney Kriva's place. (ECF No. 36.) Consequently, Attorney Kriva would not have received any notice in this case since that date.

CIT Technology Financing Services Inc.'s motion to vacate the court's prior order is **denied**. However, the court does hereby modify its prior order (ECF No. 143) so as to deny CIT Technology Financing Services Inc.'s motions without prejudice

Any renewed motion to reopen this action and enter judgment must be supported by an adequate factual basis, which may require a supporting declaration or

affidavit. Any renewed motion to substitute CIT Technology Financing Services Inc. as a party must demonstrate the citizenship of any successor and that complete diversity of citizenship exists between the parties.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 17th day of October, 2023.


WILLIAM E. DUFFIN
U.S. Magistrate Judge