

3. On April 5, 2024, Chase filed a Motion to Dismiss Complaint Under Rule 12(b)(6) and Brief in Support.³ Plaintiff's response deadline was Friday, April 26, 2024. *See* LR 7.3.

4. On April 24, 2024, Plaintiff and Chase filed a Settlement Notice and Agreed Motion to Abate providing notice that they were in the process of documenting an agreement that would resolve all claims Plaintiff asserted in this suit.⁴

5. On April 25, 2024, the Court entered an order “dismiss[ing] [this cause] on the merits without prejudice to the right of counsel of record to move for reinstatement within sixty (60) days” and denying Chase's motion to dismiss without prejudice to resubmit or reurge the motion within ten days from the date of reinstatement.⁵

6. The Parties have been unable to finalize an agreement. On May 20, 2024, Chase's counsel sent Plaintiff's counsel a form agreement for review and Plaintiff's signature that contained a deadline for Plaintiff to deliver to Chase, among other documents, the agreement executed by Plaintiff by May 22, 2024.

7. Plaintiff did not deliver to Chase's counsel the form agreement signed by Plaintiff or other documents by the deadline. Plaintiff's counsel has not advised

³ Dkt. no. 4.

⁴ Dkt. no. 5.

⁵ Dkt. no. 6.

Chase's counsel of any revisions Plaintiff requested to the form agreement or otherwise advise why Plaintiff failed to deliver the documents required by the May 22, 2024 deadline.

8. On May 22, 2024, Plaintiff's counsel sent Chase's counsel an email advising that "[Plaintiff] hasn't paid after months of requests. As such, we will be withdrawing from the case." Plaintiff's counsel also advised that he did not know whether Plaintiff "is off shore or not."

9. On May 24, 2024, Chase's counsel sent Plaintiff's counsel for review and Plaintiff's signature a new version of the form agreement, updated to extend Plaintiff's document delivery deadline to May 30, 2024.

10. Plaintiff failed to deliver to Chase's counsel the form agreement signed by Plaintiff or any other documents by the May 30, 2024 deadline. Chase does not know why Plaintiff failed to deliver the documents required to finalize an agreement.

11. On June 11, 2024 and June 14, 2024, Chase's counsel sent Plaintiff's counsel emails inquiring whether Plaintiff is no longer interested in the terms the parties previously discussed but did not receive a response before this motion was filed.

12. In light of Plaintiff's failure to deliver documents necessary to finalize an agreement or engage in discussions regarding possible terms of a resolution, the parties have been unable to finalize an agreement. Consequently, Chase requests the

Court to reinstate this lawsuit and allow Chase to re-file or reurge its Motion to Dismiss Complaint Under Rule 12(b)(6) and Brief in Support so that Chase may seek the dismissal of Plaintiff's claims with prejudice.

CONCLUSION

Wherefore, Chase respectfully requests that the Court reinstate this case, permit Chase to re-file or reurge its Motion to Dismiss Complaint Under Rule 12(b)(6) and Brief in Support, and for such other and further relief to which Chase may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

This is to certify that on June 11, 2024 and June 14, 2024 Chase's counsel emailed plaintiff's counsel Erick DeLaRue regarding the relief sought in the foregoing motion. Chase's counsel received no response and, thus, presumes that plaintiff is opposed to the foregoing motion.

/s/ R. Kendall Yow
R. Kendall Yow

CERTIFICATE OF SERVICE

This is to certify that on June 17, 2024 a true and correct copy of the foregoing document was furnished to plaintiffs in accordance with the Federal Rules of Civil Procedure.

Erick DeLaRue
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/s/ R. Kendall Yow
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