

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

APR 14 2005

JAMES W. McCORMACK, CLERK
By: *[Signature]* DEP CLERK

MICHAEL GALSTER

PLAINTIFF

VS.

CASE NO. 4:03-CV-01013 GTE

KELLY DUDA

DEFENDANT/COUNTER-CLAIMANT

ORDER

Before the Court is Defendant/Counter-claimant's Motion to Stay Enforcement Order on Defendant's Counter-claim, to which Plaintiff has responded. The Court, after being advised that the entire case had been resolved by settlement, on February 15, 2005, entered an Order of Dismissal. Defendant now seeks an Order staying its prior Order of Dismissal. For cause, Defendant states that the entire settlement agreement has yet to be reduced to writing. The fact that an agreed upon settlement has not been reduced to writing is not alone a sufficient basis to reinstate Defendant's Counter-claim.

An oral settlement reached prior to preparation of formal written settlement documents is enforceable. *Worthy v. McKesson Corp.*, 756 F.2d 1370, 1371-73 (8th Cir.1985) (per curiam). Moreover, "the fact that the parties left insubstantial matters for later negotiation ... 'does not vitiate the validity of the agreement reached.' " *Trnka v. Elanco Products Co.*, 709 F.2d 1223, 1226 n. 2 (8th Cir. 1983)(quoting *Bergstrom v. Sears, Roebuck & Co.*, 532 F.Supp. 923, 932 (D.Minn.1982)).

While the parties may have a dispute over the terms of their settlement, they may no longer litigate the claims presented in this lawsuit. The Court finds no good reason to stay the prior dismissal of any of the underlying claims in this lawsuit.

IT IS HEREBY ORDERED THAT Defendant's Motion to Stay Enforcement Order on Defendant's Counter-Claim (Docket No. 53) be, and it is hereby, DENIED. The Court retains jurisdiction over this action to enforce the terms of settlement. Either party may re-open this case solely for the purpose of enforcing the terms of the settlement agreement.

IT IS SO ORDERED this 14th day of April, 2005.

James Thomas Eide
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON
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ON 4-14-05 BY Joy

jh

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

April 14, 2005

* * MAILING CERTIFICATE OF CLERK * *

Re: 4:03-cv-01013.

True and correct copies of the attached were mailed by the clerk to the following:

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Date: 4/14/05

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BY: _____