

IN THE SUPERIOR COURT THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

ALAN GIFFORD d/b/a BLESSED TRUCKING,)
)
 Plaintiff,)
)
 v.)
)
 LSJ, LLC, LAFAYETTE CONTRACTORS, LLC,)
 WILLIAM ROWLES and LANCE GALLOWAY,)
)
 Defendants.)
 _____)

CASE NO. ST-09-CV-91

ORDER

Plaintiff filed his Complaint on February 20, 2009; Defendant Lafayette filed a Motion to Dismiss on March 18, 2010, because the agreement between the parties contains an arbitration provision; and Plaintiff opposed the dismissal on April 7, 2010. By Memorandum Opinion and Order dated June 4, 2009, the Court denied the Motion to Dismiss without prejudice and stayed proceedings so that the parties could submit this matter to arbitration.

On April 19, 2010, counsel for Plaintiff moved to withdraw under an inaccurate caption, based upon Plaintiff's failure to cooperate in arbitration; and, by Order dated April 27, 2010, the Court directed that counsel for Plaintiff resubmit the motion to withdraw in proper form and directed the parties advise the Court why the arbitration had not been accomplished. Both Defendant Lafayette and Plaintiff submitted responses representing to the Court that the arbitration had not gone forward due to the complete failure of Plaintiff to prosecute the arbitration. On May 11, 2010, counsel for Plaintiff renewed the motion to withdraw under a proper caption. By Order dated May 10, 2010, the Court directed the parties to advise the Court of the status of arbitration by July 15, 2010.

By Informative Motion dated September 8, 2010, counsel again advised the Court that arbitration had not occurred due to the failure of Plaintiff to further prosecute this action. Simply put, Plaintiff cannot continue to impede the progress of this case through his inaction in the face of clear Orders of this Court requiring his participation in arbitration. The Court being advised in the premises; it is hereby

ORDERED that the STAY previously entered herein is LIFTED; and it is

ORDERED that the Court's previous Order dated June 4, 2009, denying Defendant's Motion to Dismiss without prejudice is VACATED; and it is

ORDERED that Plaintiff's Complaint is DISMISSED WITHOUT PREJUDICE for lack of prosecution pursuant to Rule 41 of the Federal Rules of Civil Procedure; and it is

ORDERED that the parties shall each bear their own attorney's fees and costs, and it is

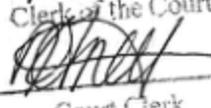
ORDERED that a copy of this Order shall be directed to counsel for the parties, and counsel for Plaintiff shall cause a copy thereof to be served on Plaintiff by certified mail, return receipt, and file proof of service thereof with the Court.

Dated: September 16, 2010.

ATTEST: Venetia H. Velazquez, Esq.
Clerk of the Court ___/___/___

by: 
Rosalie Griffith
Court Clerk Supervisor 9/17/10


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

CERTIFIED A TRUE COPY
Date: 9/17/10
Venetia H. Velazquez, Esq.
Clerk of the Court
By: 
Court Clerk