

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR CHARLOTTE COUNTY, FLORIDA

DEUTSCHE BANK TRUST COMPANY
AMERICAS AS TRUSTEE FOR RALI 2007QSS,

Plaintiff,

Case No. 09005256CA

v.

KATHLEEN M. LEWIS, PATRICK T. LEWIS, et al.,

Defendants.

ORDER OF DISMISSAL

THIS CAUSE, having come before the Court on December 21, 2012 on Defendant's Emergency Motion for Rehearing and/or Stay Pending Appeal, and the Court, having heard the arguments of counsel and being duly advised in the premises, it is hereby;

ORDERED and ADJUDGED as follows:

1. The Court has carefully reviewed the case law presented at the hearing, to include Chemrock Corp. v. Tampa Elec. Co., 71 So. 3d 786 (Fla. 2011) (setting forth the standard for dismissal under Rule 1.420(e); CPI Manufacturing Co., Inc. v. Industrias St. Jack's, S.A., 870 So. 2d 89 (Fla. 3d DCA 2004) (good cause must be filed five days before the hearing on a motion to dismiss for lack of prosecution); Sebree v. Schantz, Schatzman, Aaronson & Perlman, 963 So. 2d 842 (Fla. 3d DCA 2007) (good cause must be under oath); and Chrysler Leasing Corp. v. Passacantilli, 259 So. 2d 1 (Fla. 1972) (documents filed after a motion to dismiss for lack of prosecution are not record activity under Rule 1.420(e)).

2. There was no record activity in the 10 months preceding the Notice of Intent to dismiss for lack of prosecution or the 60 days thereafter.

3. Although Plaintiff filed a document titled "Notice of Status," that did not constitute good cause under Rule 1.420(e), and there is no good cause for this action to remain

pending.

4. The motion is granted, and this case is dismissed without prejudice for lack of prosecution.

5. The trial that was scheduled for January, 2013 is hereby cancelled.

DONE AND ORDERED in Chambers in Punta Gorda, Charlotte County, Florida on this ____ day of October, 2012.

Honorable George Richards
Circuit Court Judge

cc: Mark P. Stopa, Esq.
Law Offices of Marshall C. Watson, P.A.