

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EDROP-OFF CHICAGO LLC and CORRI)	
MCFADDEN,)	
)	
Plaintiffs,)	
v.)	CASE NO. 1:12-cv-03632
)	
NANCY R. BURKE, and MIDLEY, INC.,)	
dba PURSEBLOG.COM,)	
)	
Defendants.)	
)	

STATUS REPORT OF MIDLEY, INC.

On June 5, 2012, this Court scheduled a telephonic status conference for June 18, 2012 at 9:00 a.m. In advance of that telephonic status conference, Midley, Inc. ("Purseblog") wishes to apprise the Court of a recent order in the California action brought by Plaintiffs against Purseblog. *eDrop-Off Chicago LLC v. Nancy R. Burke, et al.*, U.S. District Court for the Central District of California, Case No. 12 -cv-04095-GW-FMO. On June 12, 2012, Judge Wu denied Plaintiffs' motion for a voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(2). A copy of Judge Wu's memorandum opinion is attached as Exhibit "A." In that Judge Wu's memorandum opinion references his June 1, 2012 tentative ruling, a copy of that tentative ruling is attached as Exhibit "B."

As has been the case since the commencement of this action, the California action remains pending against Purseblog. Following the entry of Judge Wu's order denying Plaintiffs' motion for a voluntary dismissal, Purseblog requested that Plaintiffs dismiss it from the Illinois action. Plaintiffs have so far not done so. Courts in this circuit give priority to an earlier filed case. "When duplicative actions are filed in different federal courts, 'the general rule favors the forum of the first-filed suit.'" *National Union Fire Ins. Co. v. Mead Johnson & Co.*, 2011 U.S.

Dist. LEXIS 148852 at *6-7 (S.D. Ind. Dec. 28, 2011)(quoting *Valbruna Stainless, Inc. v. Consolidated Pipe & Supply Co.*, 2010 U.S. Dist. LEXIS 22345 at *3 (N.D. Ind. Mar. 9, 2010), and *Pfizer, Inc. v. Apotex, Inc.*, 640 F. Supp. 2d 1006, 1007 (N.D. Ill. 2009)). Courts may depart from this first-to-file rule when, in an exercise of discretion, equitable or case management factors militate in favor of allowing the later-filed case to proceed. *See, e.g., Research Automation, Inc. v. Schrader-Bridgeport International, Inc.*, 626 F.3d 973 (7th Cir. 2010). No such factors exist here. As Judge Wu stated in his June 12, 2012 memorandum opinion: "To the extent Plaintiffs complain about the risk of inconsistent judgments and duplicative litigation, they have only themselves (and, perhaps, a fast-acting defendant) to blame. It is up to Plaintiffs to determine how to smooth out the creases in the bed they made." Memorandum Opinion at 6.

Dated: June 13, 2012

/s/ Francis A. Citera
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CERTIFICATE OF SERVICE

I, Francis A. Citera, hereby certify that on June 13, 2012, I electronically filed the foregoing **STATUS REPORT OF MIDLEY, INC.** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all registered parties.

/s/ Francis A. Citera