

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

B & B ENTERTAINMENT, INC., et al.,

Plaintiffs,

v.

PASTOR WILLIAM R. DUNFEE, et al.,

Defendants.

Case No. 2:07-cv-875

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE TERENCE P. KEMP

ORDER

This matter is before the Court on Plaintiffs' Motion to Dismiss Absent Defendants Without Prejudice and Plaintiffs' Motion to Dismiss Counterclaims of Defendants Pastor William R. Dunfee, Jeff Cline, Jackie L. Large, Jimmie Dale Couch, Jason D. Hurley and New Beginnings Ministries ("Ministry Defendants") (Document 41) and the Motion of Ministry Defendants for an Order Dismissing Counterclaims (Document 43).

Currently pending in this case are (a) Plaintiffs' claims against Defendants Bill Rahn and Jeremy M. Lyons ("Absent Defendants"), against whom Plaintiffs have not obtained service, and (b) Ministry Defendants' counterclaims against Plaintiffs.

In Plaintiffs' motion, Plaintiffs request that the Court dismiss Plaintiffs' claims against Absent Defendants without prejudice and dismiss Ministry Defendants' counterclaims. (Pl.'s Mot. 1.) In support of their motion to dismiss the counterclaims, Plaintiffs assert that with the exception of Ministry Defendants' Rule 11 allegation, the counterclaims are brought entirely under state law. (Pl.'s Mot. 2-3.) Alternatively, "should this Court decline to dismiss the counterclaimants' state law claims," Plaintiffs request the Court to reconsider its June 8, 2009 dismissal of Plaintiffs' state claims. (Pl.'s Mot. 3.)

Ministry Defendants also move the Court to dismiss their counterclaims without prejudice, "agree[ing] that with the Court having declined to accept jurisdiction of Plaintiffs'

state law claims. it is appropriate that the Ministry Defendants' state law claims be dismissed as well." (Defs.' Mot. 1.)

Plaintiffs' and Ministry Defendants' motions are unopposed, except that Defendants Deputy Kelly Sims and Sheriff Timothy L. Rogers ("County Defendants") oppose Plaintiffs' alternate request for reconsideration of the Court's June 8, 2009 Opinion and Order.

Because the Court dismissed Plaintiffs' federal claims and declined to exercise supplemental jurisdiction over Plaintiffs' state law claims, the Court also hereby declines to exercise supplemental jurisdiction over Ministry Defendants' state law counterclaims pursuant to 28 U.S.C. § 1367(c)(3). Consequently, Ministry Defendants' state law counterclaims are hereby **DISMISSED** without prejudice. *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966); *Brandenburg v. Housing Auth. of Irvine*, 253 F.3d 891, 900 (6th Cir. 2001).

Because Plaintiffs have not obtained service against Absent Defendants, who have not appeared in this matter, Plaintiffs' claims against Absent Defendants are also hereby **DISMISSED** without prejudice. Fed. R. Civ. P. 4(m).

For the reasons discussed above, the Court **GRANTS** Plaintiffs' and Ministry Defendants' motions to dismiss (Documents 41 and 43), **DISMISSES** Plaintiffs' claims against Absent Defendants without prejudice, and declines to exercise its supplemental jurisdiction over Ministry Defendants' counterclaims, which are also hereby **DISMISSED** without prejudice. Consistent with the Court's Opinion and Order dated June 8, 2009 and the disposal of all remaining claims by this Order, the Clerk is directed to enter judgment for Defendants.

IT IS SO ORDERED.

6-30-2009
DATED


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE