

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

REYES SALINAS and MAGDALENA *
SALINAS, husband and wife, *

Plaintiffs, *

vs. * No. 4:10CV00316 SWW

GLOBAL GEOPHYSICAL SERVICES, *
INC. and SEECO, INC., *

Defendants. *

Order

Before the Court is plaintiffs’ motion to dismiss without prejudice to which separate defendant Global Geophysical Services, Inc. (“Global”) responded.

Plaintiffs filed a complaint in May 2010; defendants answered, and the parties moved to extend the discovery and motions deadlines. Global filed a motion in limine in November 2010, which the Court denied without prejudice. Plaintiffs moved for a continuance which the Court granted.

Under Fed.R.Civ.P. 41(a)(2), a plaintiff who wishes to dismiss an action after an answer has been filed must obtain an order of the district court unless all the parties stipulate to the dismissal. Dismissal is within the discretion of the trial court, and the court may impose terms and conditions on the dismissal. In determining whether to grant a plaintiff’s motion for voluntary dismissal, a district court should consider the following factors: (1) whether the plaintiff has presented a proper explanation for the desire to dismiss; (2) whether the defendant has expended considerable effort and expense in preparing for trial; (3) whether the plaintiff

exhibited “excessive delay and lack of diligence” in prosecuting the case; and (4) whether the defendant has filed a motion for summary judgment. *Paulucci v. City of Duluth*, 826 F.2d 780, 782 (8th Cir. 1987). The Court also considers whether the dismissal would “result in a waste of judicial time and effort.” *Hamm v. Rhone-Poulenc Rorer Pharm., Inc.*, 187 F.3d 941, 950 (8th Cir. 1999).

Plaintiffs give no explanation for their desire to dismiss the case, and Global asks the Court to condition dismissal upon plaintiffs paying all duplicate costs, expenses, and attorney’s fees incurred if plaintiffs refile their claims against Global.

The Court finds the motion for voluntary dismissal [docket entry 21] should be and is hereby granted on the condition that plaintiffs reimburse Global for duplicative costs, expenses, and attorney’s fees occasioned by any refile of this lawsuit.

SO ORDERED this 2nd day of February, 2011.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE