

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

SIEMENS INDUSTRY, INC.

PLAINTIFF/
COUNTER-DEFENDANT

vs.

NO. 5:15-cv-00127 DPM/JTK

CITY OF MONTICELLO, ARKANSAS

DEFENDANT/
COUNTER-CLAIMANT

vs.

SIEMENS A.G.

THIRD-PARTY DEFENDANT

**STIUPLATED ORDER OF NONSUIT
OF THE CITY OF MONTICELLO'S
CLAIMS AGAINST SIEMENS, A.G.**

Based on the stipulation and agreement of the City of Monticello and Siemens A.G. to the terms of this Order, the Court, being sufficiently advised, finds and orders as follows:

The City of Monticello has moved to nonsuit its claims against Siemens A.G., with the consent and agreement of Siemens A.G.

The City and Siemens A.G. have stipulated and agreed that the City retains and has the right under Ark. Code Ann. § 16-56-126 and other applicable law to refile its claims against Siemens A.G. within one (1) year following the entry date of this Order. Siemens A.G. has stipulated and agreed that the City's claims filed against Siemens A.G. herein were not a "procedural ploy" as defined in *Biby v. Kansas City Life Ins. Co.*, 629 F.2d 1289 (8th Cir. 1980), and further discussed in *Chandler v. Roy*, 272 F.3d 1057 (8th Cir. 2001), and that the City retains its right provided for in Ark. Code Ann. § 16-56-126. The City served Siemens A.G. with its

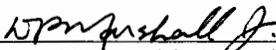
counterclaims and intended to proceed, and did in fact proceed, with the case in the United States District Court for the Eastern District of Arkansas, Pine Bluff Division. By entering this stipulation, Siemens A.G. does not waive its objection that it is not subject to personal jurisdiction in this action or any later-filed action arising out of the same series of transactions or occurrences involved in this action.

The City and Siemens A.G. have stipulated and agreed that should the City subsequently refile its claims against Siemens A.G. within one (1) year of the entry of this Order that Siemens A.G. will be barred from seeking or obtaining payment of any part of the costs of this proceeding under Fed. R. Civ. Proc. 41(d) or otherwise.

The City and Siemens A.G. have stipulated and agreed that this nonsuit/dismissal of the City's claims against Siemens A.G. shall in no way affect the claims of the City against Siemens Industry, Inc., which shall remain pending for decision/trial.

The Court hereby approves and will enforce the terms of the foregoing stipulations and agreements in each, every and all respects.

Therefore, the claims asserted by the City of Monticello against Siemens A.G. by way of counterclaim filed herein are hereby nonsuited and dismissed without prejudice.



Honorable D. Price Marshall
U.S. District Court Judge

16 March 2016

Date