

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

MARK MORRIS and MORRIS
TRANSPORTATION, INC.

PLAINTIFFS

VS.

CASE NO. 13-cv-1048

INTEGRATED FREIGHT
CORPORATION, INC.

DEFENDANT

ORDER

Before the Court is Plaintiffs' Motion to Dismiss Without Prejudice. (ECF No. 18). The Defendant has responded. (ECF No. 20). The Plaintiffs have replied. (ECF No. 22). The Court finds this matter ripe for consideration.

Plaintiffs' Complaint sought rescission of an agreement purporting to transfer Plaintiffs' stock to Defendant in exchange for valuable consideration. Through discovery, Plaintiffs learned that there is no further value in proceeding with this action, and they wish to dismiss the matter without prejudice. Defendant responds that it would consent to dismissal if Plaintiffs provide to it financial data to complete SEC filings and if Plaintiffs pay \$10,000 in attorneys fees.

Pursuant to Federal Rule of Civil Procedure 41(a)(2), an action may be dismissed at a plaintiff's request by court order on terms that the court considers proper. The Court finds that it is proper for a plaintiff to dismiss an action of which it learns it has limited economic value in continuing to pursue.

The Federal Rules of Civil Procedure do not require that the defendant consent to the dismissal. The Defendant has provided the Court with no reason why the Plaintiffs' motion should

be denied. The financial data requested by Defendant in its Response to Plaintiffs' Motion to Dismiss has no bearing on the case before the Court, and Defendant has not requested that information through a counterclaim. Therefore, the request is irrelevant to the pending Motion to Dismiss before the Court. The request for attorneys fees likewise has no bearing on the appropriateness of the Court's dismissal of the action. The Court also finds that Defendant's request for fees as a condition of the dismissal should be denied because there has been no showing why the parties should not bear their own costs. The lawsuit was brought in good faith by the Plaintiffs and was dismissed at a time when the Plaintiffs discovered it was no longer fruitful to pursue as originally intended. Moreover, Defendant has submitted no information upon which the Court could rely in determining the reasonableness of Defendant's requested fees.

Therefore, Plaintiffs' Motion to Dismiss Without Prejudice (ECF No. 18) is hereby **GRANTED**.

IT IS SO ORDERED, this 21st day of October, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge