

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

MARTHA CARTER and
KIMBERLY RUFF

PLAINTIFFS

v.

Case No. 10-6074

AFFILIATED COMPUTER SERVICES,
INC.; XEROX CORPORATION; and
ACS@XEROX, LLC

DEFENDANTS

ORDER

Now before this Court are Defendants' Motion to Dismiss for Want of Prosecution (doc. 42) and supporting brief (doc. 43). Plaintiffs failed to file a timely response.

On January 11, 2011, the Court adopted U.S. Magistrate Judge Barry A. Bryant's report and recommendation and ordered that Defendants' motion to compel be granted and the case stayed pending arbitration pursuant to Title 9, Section 3 of the United States Code. (Doc. 38). The Court further ordered the parties to advise the Court within ten (10) days of any arbitration ruling as to any remaining issues for the Court. *Id.* On February 7, 2012, the Court granted Plaintiffs' counsel's motion to withdraw after being advised that Plaintiffs' case file was returned to them by their counsel. (Docs. 39 & 41).

Defendants filed the current motion to dismiss for want of prosecution on February 6, 2014. (Doc. 42). Defendants filed affidavits of service of the motion for both Plaintiffs on February 14, 2014. (Docs. 46-47). Plaintiffs have not filed a

timely response to the motion and have had no contact with the Court in nearly three years. Further, Defendants advised Plaintiffs have made no attempts to initiate arbitration proceedings.

Accordingly, Plaintiffs leave the Court with no choice but to dismiss their Complaint for failure to prosecute. Defendants' Motion to Dismiss (Doc. 42) is GRANTED, and Plaintiffs' Complaint is DISMISSED WITHOUT PREJUDICE pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Should Plaintiffs refile their complaint, the Court may consider requiring Plaintiffs to compensate Defendants for any duplicative costs and attorney's fees incurred. In addition, the Court will require any refiling to be in the Western District of Arkansas and assigned to Judge Robert T. Dawson.

IT IS SO ORDERED this 11th day of March 2014.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge