

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 05-cv-01492-BNB-PAC

PROTOCOLS, LLC d/b/a MEDICAL SETTLEMENT PROTOCOLS, LLC, and
SAGRILLO HAMMOND DINEEN & KASTETTER, LLC.,

Plaintiffs,

v.

MICHAEL O. LEAVITT, in his capacity as the Secretary of the Department of Health and Human Services, and

DR. MARK B. MCCLELLAN, in his capacity as Administrator of the Centers for Medicare and Medicaid Services,

Defendants.

ORDER

This matter arises on the **Plaintiffs' Unopposed Motion to Drop Party** [Doc. # 72, filed 4/28/2009] (the "Motion to Drop"). Citing Fed. R. Civ. P. 21, the plaintiffs seek to drop Sagrillo Hammond Dineen & Kastetter, LLC (the "Sagrillo firm"), as a party to the action because it is in the process of dissolution; it is not a necessary party; and Protocols, LLC, is the real party in interest. Motion to Drop at ¶¶2-3. The Motion to Drop is not opposed.

Rule 21, Fed. R. Civ. P., permits a district court "at any time, on just terms, [to] add or drop a party." Pursuant to Rule 21, a court may exercise its discretion to drop a party from a lawsuit "whose presence no longer affects the issues being litigated." Letherer v. Alger Group, L.L.C., 328 F.3d 262, 267 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008); Bogaert v. Land, 2009 WL 1010950 *1 (W.D. Mich. April 14, 2009). When a court 'drops' a party under Rule

21, the dismissal is without prejudice. DirecTV, Inc. v. Leto, 467 F.3d 842, 845 (3d Cir. 2006).

I find, based on the plaintiffs' representations that the Sagrillo firm is in the process of dissolution and that Protocols is the real party in interest, that the presence of the Sagrillo firm no longer affects the issues being litigated and that it is appropriate to drop it as a plaintiff.

IT IS ORDERED that the Motion to Drop is GRANTED. Sagrillo Hammond Dineen & Kastetter, LLC, is dropped as a plaintiff and dismissed from the action without prejudice.

IT IS FURTHER ORDERED that the case caption shall be amended to delete Sagrillo Hammond Dineen & Kastetter, LLC, as a party.

Dated May 5, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge