

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BARBARA HAMBLEN and HERBERT
HAMBLEN,

Plaintiffs

v.

Case No. 8:17-cv-1613-T-33TGW

DAVOL, INC. and C.R. Bard, Inc.,

Defendants.

ORDER

This matter is before the Court pursuant to Defendants Davol, Inc. and C.R. Bard, Inc.'s Motion to Dismiss, in part, Plaintiffs' Complaint (Doc. # 9), which was filed on September 5, 2017. The Complaint spans 40 pages and contains 9 counts. (Doc. # 1). Defendants seek the dismissal of counts 4 through 8 with prejudice. Plaintiffs, two individuals who are represented by counsel, failed to file a response in opposition to the Motion within the time parameters of the Local Rules. Local Rule 3.01(b), M.D. Fla., explains, "Each party opposing a motion or application shall file within fourteen (14) days after service of the motion or application a response that includes a memorandum of legal authority in opposition to the request, all of which the respondent shall include in a document not more than twenty (20) pages."

Accordingly, on the present record, this Court considers Defendants' Motion (Doc. # 9) as an unopposed motion and grants the Motion. However, in an abundance of fairness to Plaintiffs, the Court dismisses counts 4 - 8 of the Complaint without prejudice, rather than with prejudice, as was requested in the Motion.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Defendants Davol, Inc. and C.R. Bard, Inc.'s Motion to Dismiss, in part, Plaintiffs' Complaint (Doc. # 9) is **GRANTED** as an unopposed Motion.
- (2) Counts 4 - 8 of the Complaint are dismissed without prejudice.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 26th day of September, 2017.

