

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES OWENS and MELISSA OWENS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 09-cv-0967-MJR
	)	
FLEET CAR LEASE, INC., FLEET	)	
CAR CARRIERS, INC., CCJ AUTO	)	
TRANSPORT, INC., COTTRELL, INC.,	)	
& UNKNOWN DEFENDANTS.	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

In October 2009, James and Melissa Owens sued Fleet Car Lease, Inc. (FCL), Fleet Car Carriers, Inc., CCJ Auto Transport, Inc., Cottrell, Inc., and Unknown Defendants in state court for injuries allegedly sustained as a result of a slip and fall in October 2007. On June 14, 2010, Plaintiffs moved for voluntary dismissal without prejudice (Doc. 73). The following day, the Court ordered that any objections to Plaintiffs’ motion must be filed by June 25, 2010 (Doc. 76).

FCL and Cottrell filed timely objections to Plaintiffs’ motion in which they indicate that they will waive attorneys’ fees and costs if dismissal is *with* prejudice (Docs. 80, 81). In Plaintiffs’ reply, they agree to dismissal with prejudice as to these Defendants without an award of fees or costs (Doc. 84). Accordingly, the Court will dismiss claims against these Defendants with prejudice, each party to bear its own fees and costs.

CCJ has not objected to Plaintiffs' motion to dismiss this action without prejudice. Accordingly, the Court will dismiss claims against CCJ without prejudice. Additionally, the Court notes that there are Unknown Defendants who have been neither identified nor served. As a result, the Court will also dismiss claims against Unknown Defendants without prejudice. *See Fed. R. Civ. P. 4(m)*.

Accordingly, pursuant to **FEDERAL RULE OF CIVIL PROCEDURE 41(a)**, the Court **GRANTS** in part and **DENIES** in part Plaintiffs' motion for voluntary dismissal without prejudice (Doc. 73). The Court hereby **DISMISSES without prejudice** Plaintiffs' cause of action against Defendants CCJ Auto Transport, Inc., and Unknown Defendants. The Court **DISMISSES with prejudice** Plaintiffs' cause of action against Defendants Fleet Car Lease, Inc., d/b/a Fleet Car Carriers (incorrectly named as Fleet Car Lease, Inc., and Fleet Car Carriers, Inc.) and Cottrell, Inc. Each party shall bear its own fees and costs. This case is now closed.

**IT IS SO ORDERED.**

**DATED this 12th day of July, 2010**

**s/Michael J. Reagan**  
**MICHAEL J. REAGAN**  
**United States District Judge**