

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LEWIS E. LAGRANT and ROSE M. LAGRANT,

Plaintiffs,

v.

BLACKMON'S, INC.,

Defendant.

Case No. 12-cv-1012-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the motion to strike (Doc. 10) filed by defendant Blackmon's Inc., which the Court construes as a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The defendant seeks to dismiss claims under the Illinois Dramshop Act, 235 ILCS 5/6-21. The motion was filed on December 4, 2012, but plaintiffs Lewis E. LaGrant and Rose M. LaGrant did not file a timely response to the motion. The Court issued an order to show cause why the Court should not construe their failure to timely respond to the motion as an admission of its merits and dismiss their claims under the Illinois Dramshop Act. The plaintiffs have responded that they have no objection to the dismissal of such claims (Doc. 26). Accordingly, the Court **GRANTS** the motion to strike (Doc. 10), construed as a motion to dismiss, **DISMISSES with prejudice** the plaintiffs' claims under the Illinois Dramshop Act, 235 ILCS 5/6-21, and **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

IT IS SO ORDERED.**DATED: March 21, 2013**

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE