

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

MICHAEL GARDNER

PLAINTIFF

v.

CIVIL ACTION NO. 3:14-CV-00383-CRS

GREGORY ALBERS, ET AL.

DEFENDANTS

MEMORANDUM OPINION AND ORDER

This matter is before the Court on a partial motion to dismiss (DN 6) filed by Defendants Gregory Albers and Albers Realty Group, Inc. (collectively “Defendants”) against Plaintiff Michael Gardner (“Plaintiff”). For the reasons set forth below, the Court will grant the partial motion to dismiss.

DISCUSSION

Defendants have moved to partially dismiss Plaintiff’s Complaint to the extent it requests damages in the form of attorney fees. Because “Kentucky has long followed the ‘American Rule,’ that in the absence of a statute or contract expressly providing therefor, attorney fees are not allowable as costs, nor recoverable as an item of damages,” *Cummings v. Covey*, 229 S.W.3d 59, 61 (Ky. Ct. App. 2007) (citing *Dulworth & Burress Tobacco Warehouse Co. v. Burress*, 369 S.W.2d 129 (Ky. 1963)), the Court will grant the partial motion to dismiss.

Accordingly, it is **HEREBY ORDERED** that the partial motion to dismiss (DN 6) filed by Defendants is **GRANTED**.

IT IS SO ORDERED.



**Charles R. Simpson III, Senior Judge
United States District Court**

July 14, 2014