

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SANDY E. WARREN, d/b/a S&M)	
SECURITY, and MELANIE WARREN,)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. 4:09CV1125 JCH
)	
ST. LOUIS VOA ELDERLY HOUSING,)	
INC., d/b/a EADS SQUARE APARTMENTS,)	
and VOLUNTEERS OF AMERICA ILLINOIS,)	
)	
Defendant(s).)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendants' Partial Motion to Dismiss (Doc. No. 11) and Defendants' Motion to Strike Plaintiffs' Request for Attorney's Fees and Punitive Damages (Doc. No. 13). These matters are fully briefed and ready for disposition.

DISCUSSION

This case was originally filed in the Circuit Court of the City of St. Louis, Missouri. (Petition, Doc. No. 1-2). Defendants removed this action to this Court based upon federal question jurisdiction. (Notice of Removal, Doc. No. 1, ¶ 6); see also 28 U.S.C. § 1331; 28 U.S.C. § 1441. Defendants asserted federal question jurisdiction because Plaintiffs alleged two causes of action for Civil RICO in their thirteen count state court petition. (Petition, Counts VI, XII; Notice of Removal, ¶¶ 5, 6); see 18 U.S.C. 1964 (affording federal district courts jurisdiction over RICO claims).

In their Motion to Dismiss, Defendants seek to dismiss, among other counts, Plaintiffs' two Civil RICO claims. (Motion to Dismiss, Doc. No. 11, ¶ 7). In their response, Plaintiffs concede that their Civil RICO claims are insufficient and move for the dismissal of the RICO claims. (Plaintiffs' Memorandum in Response to Defendants' Partial Motion to Dismiss, Doc. No. 20, ¶ 5). Plaintiffs

then “suggest to the Court that this matter should be remanded to state court on jurisdictional grounds.” (Id.)

The Court grants Defendants’ Motion to Dismiss Plaintiffs’ Civil RICO claims (Counts VI and XII) and remands this case to the Circuit Court of the City of St. Louis, Missouri. The Court denies Defendants’ Motion to Strike and Defendants’ Motion to Dismiss Plaintiffs’ remaining claims as moot.

CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that Defendants’ Partial Motion to Dismiss (Doc. No. 11) is **GRANTED**, in part, and **DENIED**, in part. Defendants’ Motion to Dismiss with respect to Plaintiffs’ Civil RICO claims (Counts VI and XII) is **GRANTED**. Defendants’ Motion to Dismiss with respect to Plaintiffs’ other claims is **DENIED** as moot.

IT IS HEREBY FURTHER ORDERED that Defendants’ Motion to Strike Plaintiffs’ Request for Attorney’s Fees and Punitive Damages (Doc. No. 13) is **DENIED** as moot.

IT IS HEREBY FURTHER ORDERED that this case is **REMANDED** to the Circuit Court of the City of St. Louis, State of Missouri. An appropriate Order of Remand will accompany this Order.

Dated this 20th day of November, 2009.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE