Daniels et al v. Colorado Federal Savings Bank et al Doc. 14

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

CALVIN DANIELS and MANETHIA DANIELS,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 14-0303-CV-W-ODS
	)	
COLORADO FEDERAL SAVINGS BANK, et al.,	)	
	)	
	)	
Defendants.	)	

ORDER DISMISSING DEFENDANT MILLSAP & SINGER, LLC
WITHOUT PREJUDICE

On April 2, 2014, Defendant Millsap & Singer, LLC filed a Motion to Dismiss. Plaintiffs did not respond, and on April 28 the Court issued an Order directing Plaintiffs to show cause why Millsap & Singer should not be dismissed. Plaintiffs responded on May 8 by filing a Notice of Voluntary Dismissal whereby they seek to have Millsap & Singer dismissed without prejudice. Millsap & Singer has not responded to this effort.

The Court elects to dismiss Millsap & Singer without prejudice. The Court notes that while Millsap & Singer's presence deprived the Court of diversity jurisdiction, Plaintiff's dismissal removes this difficulty and the case need not be remanded. Cf. Knudson v. Systems Painters, Inc., 634 F.3d 968, 975-76 (8th Cir. 2011).

The Court expresses no view on Millsap & Singer's Motion to Dismiss (Doc. # 2), which is denied as moot. The Court also expresses no view on the argument (presented in Defendants' Notice of Removal) that Millsap & Singer was fraudulently joined.

IT IS SO ORDERED.

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT

DATE: May 27, 2014

Dockets.Justia.com