

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

DENNIS WALTER and)
EDITH WALTER,)
)
Plaintiffs,)
)
vs.)
)
CORRECTIONAL MEDICAL)
SERVICES, INC., et al.,)
)
Defendants.)

Case No. 07-6041-CV-SJ-GAF

ORDER

Presently before the Court are Defendants Gloria Carter-Price, Theresa Maxwell, Connie Babbitt, Dr. Joseph Martin, Judy Ramsbottom, Leola Baumgarden, Dr. Hauenstein, Joy Jenson-Hailey, Dr. Milo Farnham, Diana Ayres, Myra Guant, Jinece Rees, and Correctional Medical Services, Inc.’s (collectively “CMS Defendants”) and Defendants Gary Kempker and Steven Moore’s (collectively “Defendants Kempker and Moore”) Motions to Reconsider Order Granting Plaintiff’s Motion to Dismiss without Prejudice. (Doc. ##103-04). CMS Defendants request reinstatement of the lawsuit so the Court may rule on their pending Motion for Summary Judgment (Doc. #99) or, in the alternative, require Plaintiffs Dennis and Edith Walter (“Plaintiffs”) to pay the costs associated with this lawsuit and the sanctions previously imposed upon Plaintiffs in the Order dated January 12, 2009. (Doc. #103) Defendants Kempker and Moore request modification of the Order dismissing the case to require Plaintiffs to pay the costs associated with the above-captioned lawsuit in the event they re-file the lawsuit and to pay the sanctions previously imposed upon Plaintiffs in the Order dated January 12, 2009. (Doc. #104).

After review of the parties’ respective arguments, it is

ORDERED that the Motions are DENIED. CMS Defendants will be able to re-file their Motion for Summary Judgment should Plaintiffs institute the action in the future. CMS Defendants' and Defendants Kempker and Moore's request for reimbursement of costs associated with the above-captioned case should be made if and when the claims are brought again. *See* Fed. R. Civ. P. 41(d). Finally, the Court previously ordered Plaintiff to pay the sanctions and they represent they have recently done so.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: June 4, 2009