

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

NIKKI STIFF and WENDY STIFF,)	CASE NO. 8:09CV437
)	
Plaintiffs,)	
)	
vs.)	
)	AMENDED MEMORANDUM
RYAN WOEHL, ROBERT WOEHL,)	AND ORDER
UNITED STATES OF AMERICA,)	
DODGE COUNTY TITLE AND)	
ESCROW,)	
)	
Defendants.)	

This matter is before the Court on the unopposed motion for reconsideration filed by the Defendant, the United States of America (Filing No. 14), resulting in this Amended Memorandum and Order.

The original Memorandum and Order granted the Plaintiffs’ motion to remand (Filing No. 11) and denied the motion to dismiss filed by the Defendant, United States of America (Filing No. 7), and the Plaintiffs’ motion to dismiss (Filing No. 10) as moot. The parties informed the Court that in filing these motions they anticipated that the motions to dismiss would be granted, resulting in the dismissal of the federal defendant, prior to the anticipated remand. The unopposed motion for reconsideration followed.

PROCEDURAL HISTORY

This breach of contract case was removed from the District Court of Saunders County, Nebraska, by the United States Attorney. Plaintiffs originally named the following Defendants: Ryan Woehl; Robert Woehl; Jay Schroeder; the U.S. Department of Agriculture Farm and Foreign Agriculture Services, Farm Service Agency (“USDA/FSA”); Dodge County Title and Escrow; and the Dodge County Farm Service Agency (“County

FSA”). (Filing No. 1.) The Assistant United States Attorney’s Notice of Substitution resulted in the addition of the United States as a defendant and the termination of the following defendants: the USDA/FSA; the County FSA; and Jay Schroeder. (Filing No. 4; ECF entry 12/10/2009.)

The government then filed a motion to dismiss based on Federal Rule of Procedure 12(b)(1) and 12(b)(6), alleging lack of subject matter jurisdiction and failure to state a claim for which relief may be granted. (Filing No. 7.) The Plaintiffs then filed a motion to dismiss the previously terminated Defendants as well as the United States of America, stating that the suit against those Defendants is premature. (Filing No. 10.) Finally, the Plaintiffs filed a motion to remand, based on lack of subject matter jurisdiction under 28 U.S.C. § 1447(c) and lack of diversity of citizenship under 28 U.S.C. § 1332.

The parties’ motions to dismiss will be granted, and this action will then be remanded to the District Court for Saunders County, Nebraska.¹

IT IS ORDERED:

1. The unopposed motion for reconsideration filed by the Defendant, the United States of America (Filing No. 14) is granted;
2. The motion to dismiss filed by the Defendant, United States of America, (Filing No. 7) is granted;
3. The Plaintiffs’ motion to dismiss (Filing No. 10) is granted;
4. Plaintiffs’ motion to remand (Filing No. 11) is granted;
5. This case is remanded to the District Court for Saunders County, Nebraska;

¹The original Memorandum and Order did not dismiss the United States prior to the remand.

6. The Clerk of this Court is directed to mail a certified copy of this order to the Clerk of the District Court for Saunders County, Nebraska; and

7. The Clerk is directed to close this case for statistical purposes.

DATED this 15th day of April, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge