

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

**RICKEY HARRELL, and
JOYCE HARRELL,**

Plaintiffs,

vs.

G4S SECURE SOLUTIONS (USA), INC.,

Defendant.

8:13CV247

MEMORANDUM AND ORDER

This matter is before the Court on the Motion to Dismiss the Counterclaims (Filing No. 40) filed by the Plaintiffs Rickey Harrell (“Mr. Harrell”) and Joyce Harrell (“Ms. Harrell”) (collectively “Plaintiffs”). For the reasons stated below, the Motion will be granted, and Defendant’s counterclaims will be dismissed, without prejudice.

BACKGROUND

On August 14, 2013, Plaintiffs filed their Complaint in this action against the Defendant, G4S Secure Solutions (USA), Inc. (“G4S”) (Filing No. 1.) In their Complaint, Plaintiffs invoked the jurisdiction of the Court pursuant to 28 U.S.C. § 1332 (“diversity jurisdiction”). On October 7, 2013, G4S, Inc. filed its Answer asserting certain counterclaims against the Plaintiffs and demanding judgment in the amount of \$64,176.59. (Filing No. 12.)

On January 6, 2014, G4S filed a Motion for Judgment on the Pleadings as to the claims asserted by the Plaintiffs. (Filing No. 19.) The Court entered a Memorandum and Order dated February 11, 2014, granting the Defendant’s Motion. (Filing No. 26.) The Defendant’s Motion did not address its counterclaims; therefore, the Court’s Order did not dispose of the Defendant’s counterclaims.

Plaintiffs appealed the Court's February 11, 2014, Memorandum and Order to the United States Court of Appeals for the Eighth Circuit. In an opinion dated September 25, 2014, the Eighth Circuit dismissed the Plaintiffs' appeal because no final judgment had been entered in this Court due to the pendency of the Defendant's counterclaims. (Filing No. 35.)

The only claims currently pending before this Court are the counterclaims asserted by G4S against the Plaintiffs in the amount of \$64,176.59. The parties agree that the amount remaining in controversy is insufficient to satisfy the jurisdictional requirements of 28 U.S.C. § 1332. Plaintiffs seek to make this Court's Memorandum and Order granting the Defendant's Motion for Judgment on the Pleadings a final and appealable order by dismissing G4S's counterclaims.

DISCUSSION

"Congress unambiguously gave district courts discretion in 28 U.S.C. § 1367(c) to dismiss supplemental state law claims when all federal claims have been dismissed." *Gibson v. Weber*, 431 F.3d 339, 342 (8th Cir. 2005). "[I]n the usual case in which all federal-law claims are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward declining to exercise jurisdiction over the remaining state-law claims." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7 (1988); see also *Keating v. Nebraska Pub. Power Dist.*, 660 F.3d 1014, 1019 (8th Cir. 2011).

G4S does not expressly oppose the Plaintiffs' Motion to Dismiss. Instead, G4S requests that any dismissal be without prejudice so as to protect G4S's option to re-file its claims in an appropriate jurisdiction under the appropriate tolling statute. Having

considered the parties' arguments and the record in this case, the Court concludes that the factors of judicial economy, convenience, fairness, and comity all point toward declining jurisdiction over G4S's remaining state-law claims. Accordingly,

IT IS ORDERED:

1. The Motion to Dismiss the Counterclaims (Filing No. 40) filed by the Plaintiffs Rickey Harrell and Joyce Harrell, is granted;
2. The remaining counterclaims of Defendant G4S Secure Solutions (USA), Inc. are dismissed, without prejudice;
3. For the reasons stated in the Court's Memorandum and Order of February 11, 2014 (Filing No. 26), Plaintiffs' claims are dismissed with prejudice;
4. This case may be terminated for statistical purposes; and
5. A separate judgment will be entered.

Dated this 4th day of August, 2015

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge