

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00156-FDW-DSC

SPENCER MIMS, JR., JOHN D.)
POETZSCH, as Administrator of The Estate)
of SPENCER R. MIMS, III,)
)
Plaintiffs,)
)
vs.)
)
CITY OF CHARLOTTE, and J. B.)
DONALDSON, Individually and Officially,)
)
Defendants.)

ORDER

THIS MATTER is before the Court on Plaintiffs’ Motion for Remand pursuant to 28 U.S.C. § 1447(c). (Doc. No. 6). For the reasons stated herein, this motion is GRANTED.

In their Motion for Remand, Plaintiffs assert that, because Plaintiffs dismissed their Fourth Amendment claim against Defendants, the Court now lacks subject matter jurisdiction over the remaining pendent claims, which are based on state law. (Doc. No. 6). Plaintiffs inform the Court that Defendants have been consulted and take no position on Plaintiffs’ Motion to Remand. Id. Based on a review of the record, and on the lack of Defendants’ opposition to the Motion to Remand, the Court finds that it lacks jurisdiction over the remaining claims and remands this case to State court for further proceedings.

Additionally, although the Court remands this case, it retains jurisdiction over the issue of whether fees and costs should be assessed against Plaintiffs. In their Motion to Remand, Plaintiffs notified the Court that Defendants intend to seek fees and costs. Id. Accordingly, the Court requests the parties to submit briefs to the Court concerning whether fees and costs should be assessed against Plaintiffs.

IT IS THEREFORE ORDERED that this case is REMANDED to State court for further proceedings. Additionally, Plaintiffs and Defendants shall submit memoranda of law, concerning the issue of assessing fees and costs against Plaintiffs, to the Court no later than Wednesday, May 20, 2015. Each side shall submit one memorandum amounting to no more than 3,000 words. The parties may file responsive pleadings, composed of no more than 1,500 words, no later than Wednesday, May 27, 2015. No replies will be permitted.

IT IS SO ORDERED.

Signed: May 6, 2015



Frank D. Whitney
Chief United States District Judge

