

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Dan Abelmann and the Estate of Leanne )  
 Abelmann, as successor-in-interest to Leanne )  
 Abelmann, deceased, )  
 )  
 Plaintiffs and Counterclaim )  
 Defendants, )  
 )  
 v. )  
 )  
 Smart Lease USA, L.L.C., )  
 )  
 Defendant, Counterclaimant and )  
 Third-Party Plaintiff, )  
 )  
 Executive Housing Solutions, LLC; Ray Wurth, )  
 Don Gibson, and Richard Church a/k/a Chad )  
 Church, d/b/a Executive Housing Solutions, LLC; )  
 Ray Wurth, Don Gibson, Richard Church a/k/a )  
 Chad Church, )  
 )  
 Third-Party Defendants. )

**ORDER FOR DISMISSAL AND  
ENTRY OF FINAL JUDGMENT  
OF CERTAIN CLAIMS; ORDER  
GRANTING LEAVE TO FILE  
AMENDED PLEADINGS**

Case No. 4:14-cv-040

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On January 25, 2021, Smart Lease USA, LLC (“Smart Lease”) filed a Motion for Dismissal of the Abelmann’s Claims and Smart Lease’s Counterclaims and for Leave to Allow Smart Lease to File its First Amended Complaint. (Doc. Nos. 241 and 244). The parties also filed a Stipulation for Dismissal of the Abelmann’s Claims and Smart Lease’s Counterclaims and for Leave to Allow Smart Lease to File its First Amended Complaint. (Doc. No. 243).

The court **ADOPTS** the parties’ stipulation (Doc. No. 243), **GRANTS** Smart Lease’s motion (Doc. Nos. 241 and 244), and **ORDERS**:

1. Plaintiffs and Counterclaim Defendants Dan Abelmann and the Estate of Leanne Abelmann, as successor-in-interest to Leanne Abelmann, deceased (“Abelmanns”)

claims against Smart Lease in are **DISMISSED** with prejudice and without costs, disbursements, or attorney's fees to any party.

2. Smart Lease's counterclaims against the Abelmans are **DISMISSED** with prejudice and without costs, disbursements, or attorney's fees to any party.
3. The court concludes based on the referenced Stipulation there is no just reason for delay in the dismissal of the claims referenced in 1 and 2 above becoming final and, pursuant to Fed. R. Civ. P. 54(b) directs the clerk to enter a final judgment of dismissal of those claims.
4. Smart Lease shall have until February 1, 2021, to file its First Amended Complaint. The allegations of the First Amended Complaint shall relate back to May 20, 2016, the date on which the Court entered its order allowing Smart Lease to bring an action against Executive Housing Solutions, LLC, Ray Wurth and Don Gibson d/b/a Executive Housing Solutions, LLC, Ray Wurth, and Don Gibson. (Doc. No. 66).
5. Third Party Defendants Executive Housing Solutions, LLC, Ray Wurth and Don Gibson d/b/a Executive Housing Solutions, LLC, Ray Wurth, and Don Gibson as Defendants shall have 21 days to file an Answer to the First Amended Complaint.

Dated this 27th day of January, 2021.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court