

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

CLIFFORD BAILEY, *et al.*,

Plaintiffs,

Case No. 3:17-cv-332

vs.

VERSO CORPORATION,

Magistrate Judge Michael J. Newman

(Consent Case)

Defendant.

ORDER AND ENTRY: (1) GRANTING DEFENDANT'S RULE 56(d) MOTION; (2) DENYING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND PERMANENT INJUNCTION (DOC. 29) WITHOUT PREJUDICE TO REILING; (3) SETTING A BRIEFING SCHEDULE ON DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS; AND (4) VACATING THE JULY 5, 2018 TELEPHONE CONFERENCE

This civil case is before the Court following a status conference with the parties on June 11, 2018. Doc. 32. At that time, pending before the Court, were two separate motions: (1) Defendant's motion for judgment on the pleadings (doc. 19); and (2) Plaintiffs' memorandum in opposition/motion for summary judgment (doc. 29).

During the status conference with the Court on June 11, 2018, Defendant's attorneys expressed their concern that Plaintiffs' motion for summary judgment was premature; that discovery was required to respond to the motion for summary judgment; and that Plaintiffs' action is an attempt to submit to the Court matters outside the pleadings in opposing the Rule 12(c) motion. Following the status conference on June 11, 2018, Defendants moved for relief under Fed. R. Civ. P. 56(d) to either strike or defer consideration of Plaintiffs' motion for summary judgment. Doc. 34.

The undersigned finds that Plaintiffs have appropriately filed a motion for summary judgment. *See* Fed. R. Civ. P. 56(b) (stating that, “[u]nless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery”). Nevertheless, in an effort to efficiently manage the docket, the Court finds it appropriate to **GRANT** Defendant’s Rule 56(d) motion (doc. 34) because discovery has been stayed in this case to date, thus denying Defendant an opportunity for discovery. Accordingly, at this time, the Court **DENIES** Plaintiffs’ motion for summary judgment **WITHOUT PREJUDICE TO REFILE** following full briefing and a decision on Defendant’s motion for judgment on the pleadings.

Plaintiffs are **ORDERED** to separately file a memorandum in opposition to Defendant’s motion for judgment on the pleadings with **14 days** from the entry of this Order. In doing so, Plaintiffs shall be mindful that, aside from a few exceptions, the Court’s review of a Rule 12(c) motion is limited to the allegations pled in the complaint. If Plaintiffs contend that matters outside the pleadings are appropriate for the Court to consider in deciding the Rule 12(c) motion, Plaintiffs shall cite appropriate authority in that regard. Defendants shall have **14 days** from the filing of Plaintiffs’ separate memorandum in opposition to file their reply in support of the motion for judgment on the pleadings.

The telephone status conference set for July 5, 2018 is **VACATED**.

IT IS SO ORDERED.

Date: July 3, 2018

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge