

IN THE CIRCUIT COURT OF VAN BUREN COUNTY, ARKANSAS
FIFTH DIVISION

RODGER DALE BRADFORD AND NINA
RUTH BRADFORD STILL

PLAINTIFFS

VS.

NO. CV 2014-14-5

THE CAFFEY GROUP, LLC

DEFENDANT

**ORDER GRANTING THE CAFFEY GROUP, LLC'S
MOTION TO DISMISS THE AMENDED COMPLAINT**

On the 9th day of June, 2016, Defendant The Caffey Group, LLC's ("TCG") Motion to Dismiss the Plaintiff's Amended Complaint came on to be heard. Based upon the pleadings, arguments of counsel, and applicable law, the Court finds that the Defendant TCG's Motion to Dismiss the Amended Complaint pursuant to Arkansas Rules of Civil Procedure Rule 12(b)(6) is well taken and is hereby GRANTED.

In explanation, when a court is presented with a motion to dismiss, the motion should be granted when the Complaint fails "to state facts upon which relief can be granted." Ark. R. Civ. P. 12(b)(6). In reviewing a motion to dismiss, the court should treat the facts alleged in the Complaint as true and view them in the light most favorable to the Plaintiff. *County Corner Food & Drug, Inc. v. First State Bank & Trust Co.*, 332 Ark. 645, 966 S.W.2d 894 (1998). However, the Complaint must allege facts, not mere conclusions, which would entitle the pleader to relief under Arkansas law. *Id.* A motion to dismiss is appropriate not only when the Plaintiff fails to plead sufficient facts, but also when the substantive law does not afford the requested relief. *See Matter of Poston*, 318 Ark. 659, 887 S.W.2d 520 (1994); Ark. R. Civ. P. 8(a).

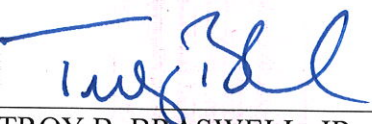
In their Amended Complaint, Plaintiffs seek judgment against TCG on the basis of mutual mistake, unjust enrichment, and lack of consideration. This Court previously entered an

order dismissing with prejudice all of Plaintiffs' claims which arose out of this same leasing transaction and involves the same parties and facts as this current suit. *See Order Granting The Caffey Group's Motion to Dismiss Second Amended Complaint, Bradford, et al. v. The Caffey Group, et al.*, No. CV-2012-136. The Court later modified its order to exclude Plaintiffs' mutual mistake claim, which was dismissed without prejudice. *See Order Granting Motion to Modify Order, Bradford, et al. v. The Caffey Group, et al.*, No. CV-2012-136. As such, the Court finds that Plaintiffs' claims of unjust enrichment and lack of consideration having previously been dismissed are barred by res judicata.

As for the remaining claim of mutual mistake, Plaintiffs claim that, because of a mistake in certain Lease Purchase Reports and Ownership Reports, which were prepared by TCG and relied upon by both Plaintiffs and TCG, TCG failed to pay all lease rental and bonus compensation due to Plaintiffs under their leases with TCG. Plaintiffs request that the Court reform the Lease Purchase Report and the Ownership Reports, which would subsequently, reform their leases with TCG. The Court finds that Plaintiffs failed to plead sufficient facts upon which relief can be granted and the substantive law of Arkansas does not provide a cause of action for the relief sought, i.e. the reformation of underlying documents.

For the reasons stated above, Defendant TCG's Motion to Dismiss is hereby GRANTED and Plaintiffs' claims against Defendant TCG in the above-referenced cause are hereby DISMISSED with prejudice.

IT IS SO ORDERED this 1 day of May, 2017.


TROY B. BRASWELL, JR.
CIRCUIT JUDGE