

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN DUROCHER and DARRIN)
HARRIS,)

Plaintiffs,)

vs.)

1:13-cv-01570-SEB-DML

RIDDELL, INC.,)
ALL AMERICAN SPORTS)
CORPORATION doing business as)
RIDDELL/ALL AMERICAN,)
RIDDELL SPORTS GROUP, INC.,)
EASTON-BELL SPORTS, INC.,)
EASTON-BELL SPORTS, LLC,)
EB SPORTS CORPORATION, and)
RBG HOLDINGS CORPORATION,)

Defendants.)

Order on Plaintiffs’ Motion to Withdraw Second Amended Complaint

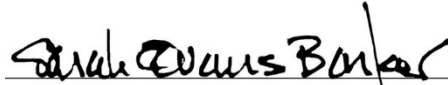
The plaintiffs have moved the court to withdraw their second amended complaint without prejudice. The defendants oppose the motion because certain of the claims in the second amended complaint have already been dismissed with prejudice. The defendants suggest that the appropriate relief in light of the plaintiffs’ expressed desire to not pursue in this case any of the remaining claims is to dismiss without prejudice the remaining claims, that is, Messrs. DuRocher’s and Harris’s individual claims for alleged design defect and failure to warn. The plaintiffs did not file a reply brief.

The court agrees with the defendants that a withdrawal of the second amended complaint is not appropriate because some of the claims from that complaint have already been dismissed with prejudice on the merits. But in light of the plaintiffs' decision to no longer pursue the remaining claims in this case, the court **HEREBY DISMISSES WITHOUT PREJUDICE** the individual claims by plaintiffs DuRocher and Harris for alleged design defect and failure to warn.

With this order, along with the court's orders at Dkt. 103, 104, and 125, all claims in this case have now been resolved through a dismissal with prejudice (individual claims by Messrs. DuRocher and Harris for medical monitoring, negligence, and products liability manufacturing defect) or a dismissal without prejudice (the remaining claims). This matter is closed.

So ORDERED.

Dated: 11/18/2016


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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