

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOSEPH HENRY and MICHAEL MALINKY,

Plaintiffs,

- v s -

01-CV-1681

CHAMPLAIN ENTERPRISES, INC., d/b/a
CommutAir; ANDREW PRICE; and U.S.
TRUST COMPANY OF CALIFORNIA, N.A.,

Defendants.

APPEARANCES:

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DAVID N. HURD
United States District Judge

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LARS C. GOLUMBIC, ESQ.

ORDER

On January 5, 2007, a judgment was entered dismissing the complaint. (Docket No. 230). Plaintiffs have moved to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), or in the alternative, for relief from the judgment pursuant to Fed. R. Civ. P. 60(b). (Docket No 232). Defendants oppose. (Docket No. 240). Plaintiffs have replied. (Docket No. 242).

Plaintiffs have also moved to set aside costs, or in the alternative, to stay taxation and payment of costs pursuant to Fed. R. Civ. P. 54(d)(1). (Docket No. 238). Defendants oppose. (Docket No. 243). The motions were taken on submit.

Upon a review of the submissions and law, plaintiffs' motions must be denied.

The purchase price on the Stock Purchase Agreement was \$60 Million. This is the amount the ESOP paid for the CommutAir stock at closing. The \$9 Million cash down payment to the Sellers was part of the \$60 Million purchase price of the stock and was taken into consideration. Further, the cancellation of the \$9 Million note from the ESOP to CommutAir was taken into consideration. The plaintiffs have never claimed (until now) that they paid more than \$60 Million for the CommutAir stock. There was no "mathematical error."

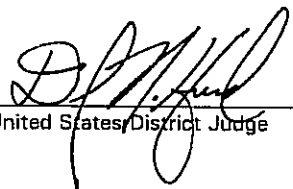
The plaintiffs' remaining arguments regarding both motions have been considered and are without merit.

Therefore, it is

ORDERED that both of plaintiffs' motions are DENIED.

IT IS SO ORDERED.

Dated: April 23, 2007
Utica, New York.


United States District Judge