

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LOLITA DAVIS, ET AL.

v.

THE TERMINIX INTERNATIONAL CO.

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Civil No. JFM-09-2828

MEMORANDUM

In the original complaint they filed in this action, plaintiffs brought suit against THE TERMINIX INTERNATIONAL COMPANY, L.P. (“Terminix”). After Terminix filed a motion to dismiss, plaintiffs filed an amended complaint in which they added Safeguard Pest Control (“Safeguard”) as a defendant. Terminix has now filed a motion to dismiss the amended complaint against it. The motion will be granted.

Plaintiffs’ claims are for property damage and personal injury arising from a pest control application at their home on August 11, 2006. The application was performed by Safeguard, not by Terminix. Thereafter, Terminix purchased Safeguard’s assets. The Asset Purchase Agreement obligated Terminix to continue to perform services at the accounts that were acquired from Safeguard. However, Terminix did not assume Safeguard’s liabilities in the Asset Purchase Agreement. Indeed, Section 36(b) of the Asset Purchase Agreement expressly excluded Terminix’s assumption of any Safeguard liability arising prior to the Agreement’s closing date. Accordingly, plaintiffs have no claim against Terminix under the Agreement.

Plaintiffs alternatively argue that Terminix is liable to them under Article 6 of the Maryland Uniform Commercial Code (“UCC”). That argument is unavailing. Article 6 is

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ORDER

For the reasons stated in the accompanying memorandum, it is, this 27th day of January
2010

ORDERED

1. The motion to dismiss the amended complaint filed by The Terminix International Company, L.P., is granted; and
2. Plaintiff's claim against Terminix is dismissed.

/s/
J. Frederick Motz
United States District Judge