

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 11-cv-02969-PAB-KLM

ELECTRONIC PAYMENT SYSTEMS, LLC,

Plaintiff,

v.

DAVID HOMOKI d/b/a Global Check Services, and
GLOBAL CHECK SERVICES, INC.,

Defendants.

ORDER

This matter is before the Court on the Motion to Dismiss [Docket No. 10] filed by defendants David Homoki and Global Check Services, Inc. requesting that the Court dismiss the case for lack of personal jurisdiction and improper venue. In the motion, defendants claim that plaintiff Electronic Payment Systems, LLC is collaterally estopped from litigating the terms of the settlement agreement from a previous case, *David Homoki v. Conversion Services, Inc.*, No. 09-cv-02644 (S.D. Tex. 2009), because this issue was previously adjudicated and is subject to appellate review by the Fifth Circuit Court of Appeals. See Docket No. 10 at 4-5.

On September 17, 2012, defendants submitted an order from the Fifth Circuit enjoining the parties from litigating the present case because of the risk of inconsistent verdicts regarding the interpretation of the parties' settlement agreement. See Docket No. 23 at 5. In light of the Fifth Circuit's order, it is

ORDERED that, on or before Wednesday, September 26, 2012, the parties shall show cause why the pending motion to dismiss [Docket No. 10] should not be denied without prejudice and why this civil action should not be administratively closed pursuant to D.C.Colo.LCivR 41.2.

DATED September 21, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge