

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

KEVIN NUTT AND LISA NUTT

PLAINTIFFS

v.

Case No. 3:10-cv-00307-KGB

STAFFORD KEES, ET AL.

DEFENDANTS

ORDER AND AMENDED JUDGMENT

On August 12, 2015, the United States Court of Appeals for the Eighth Circuit issued an Opinion and Judgment in this case (Dkt. Nos. 150, 151). In its Opinion, the Eighth Circuit reversed and remanded this Court's judgment in favor of plaintiffs Kevin and Lisa Nutt against defendant Osceola Therapy and Living Center ("OTLC") (Dkt. No. 124). The mandate issued on September 2, 2015 (Dkt. No. 152).

When a mandate is issued by an appellate court and further proceedings are not required, the order of the appellate court shall be the order of the district court and shall be entered by the Clerk with no further action by the district court. Local Rule of the United States District Court for the Eastern and Western Districts of Arkansas 83.4. In this case, the Court finds it necessary to amend its Findings of Fact and Conclusions of Law and the accompanying Judgment to conform with the Opinion of the appellate court because there are ongoing proceedings in this case (Dkt. Nos. 123, 124). Therefore, the Court amends its Findings of Fact and Conclusions of Law and Judgment entered in this case to strike the portions that are inconsistent with the Eighth Circuit Opinion, specifically those portions finding in favor of plaintiffs Kevin and Lisa Nutt against defendant OTLC.

An Amended Judgment is hereby entered in favor of defendant OTLC as against plaintiffs Kevin and Lisa Nutt. The Court reaffirms its Findings of Fact and Conclusions of Law and Judgment in all other respects, specifically in regard to plaintiffs Kevin and Lisa Nutt's

claims against defendants Stafford Kees, Osceola Nursing Home, LLP, and Osceola Healthcare, PLLC.

Finally, this Court writes to confirm that its stay on the execution of the judgment in favor of plaintiffs Kevin and Lisa Nutt has been lifted (Dkt. No. 147). That stay was in effect pending the outcome of the plaintiffs' motion to amend the judgment. This Court denied that motion by prior Order (Dkt. No. 148), and the stay is no longer in effect.

SO ORDERED this 24th day of September, 2015.



KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE