

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

RAY NASSAR and GENA SMITH,

*

*

Plaintiffs

*

V.

*

NO: 3:11CV00133 SWW

*

EARNESTINE JACKSON, individually
and in her official capacity as a Hughes
School Board Member, ET AL.

*

*

*

*

Defendants

ORDER

Before the Court is Plaintiffs' motion for writs of execution (docket entry #121). After careful consideration, and for reasons that follow, the motion is denied without prejudice to Plaintiffs' right to make an application directly to the Clerk of the Court.

Rule 69(a)(1) of the Federal Rules of Civil Procedure¹ provides: "A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution--and in proceedings supplementary to and in aid of judgment or execution--must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies." Fed. R. Civ. P. 60(a)(1). Additionally, Rule 69(a)(2) provides that "[i]n aid of the judgment or execution, the judgment creditor . . . may obtain discovery from any person--including the judgment debtor--as provided in these rules or by the procedure of the state where the court is located." Fed. R. Civ. P. 69(a)(2).

Plaintiffs may obtain a writs of execution by applying *directly* to the Clerk of the Court. In making an application for a writ of execution, Plaintiffs must draft a writ of execution and

¹Rule 69 of the Federal Rules of Civil Procedure governs money judgments, and Rule 70 governs the enforcement of non-money judgments.

present it to the Clerk of the Court for the Clerk's review and endorsement. In preparing a writ, Plaintiffs may find it helpful to refer to the format set forth under Ark. Code. Ann. § 16-66-104(a).²

For the reasons stated, Plaintiffs' motion for issuance of a writ of execution (docket entry #121) is DENIED without prejudice to Plaintiffs' right to make an application to the Clerk of the Court for a writ of execution as set forth above.

IT IS SO ORDERED THIS 14TH DAY OF FEBRUARY, 2013.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE

²Section 16-66-104(a) sets forth a general form that may be used as a guide and changed to suit each particular case. For example, a writ of execution in this case would be directed to the United States Marshal of the Eastern District of Arkansas, rather than a state officer.