

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

**ELMER JOE SWAFFAR and
TODD SWAFFAR**

PLAINTIFFS

v.

4:09-CV-00462-WRW

DAVID H. ARRINGTON OIL & GAS, INC.

DEFENDANTS

ORDER

Pending are Defendant's Motion to Dismiss and Amended Motion to Dismiss for Lack of Diversity (Doc. Nos. 3, 6), Plaintiffs' Motion for Voluntary Dismissal of Todd Swaffar (Doc. No. 5), and Plaintiff's Motion for Leave to File First Amended Complaint (Doc. No. 8).

On July 16, 2009, Defendant filed a motion to dismiss because Plaintiff Todd Swaffar and Defendant are non-diverse parties. In response, Todd Swaffar moved for voluntary dismissal of his claims. Based on the briefs, Elmer Joe Swaffar and Todd Swaffar have separate mineral lease agreements with Defendant, which involve different parcels of land. Based on these facts, it seems entirely reasonable to permit Todd Swaffar to dismiss his claims in this suit.

Accordingly, Plaintiffs' Motion for Voluntary Dismissal of Todd Swaffar (Doc. No. 5) is GRANTED and Plaintiff Todd Swaffar is DISMISSED. The Motion for Leave to File First Amended Complaint (Doc. No. 8) is GRANTED, and Plaintiff is directed to file the Amended Complaint, attached to the motion as Exhibit A, by 5 p.m., Thursday, July 30, 2009.

Defendant's Motions to Dismiss (Doc. Nos. 3, 6) are DENIED as MOOT.

IT IS SO ORDERED this 23rd day of July, 2009.

/s/ Wm. R. Wilson, Jr. _____
UNITED STATES DISTRICT JUDGE