

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

EXIGENCE LLC

PLAINTIFF

v.

No. 4:10-cv-144-DPM

**DAVID A. LITTLETON; and
ANDERSON MURPHY &
HOPKINS LLP**

DEFENDANTS

ORDER

For good cause, Exigence's motion to dismiss its complaint without prejudice, *Document No. 44*, is granted. FED. R. CIV. P. 41(a)(2). The Court imposes only one condition: if Exigence refiles its complaint, then it must reimburse Littleton and his firm for any costs (as defined by Rule of Civil Procedure 54) incurred in this case that Defendants must incur again in the new case. FED. R. CIV. P. 41(d). The particulars of any reimbursement will be decided on motion by the Court presiding over the re-filed case. The Court concludes that most of the effort to date, especially as reflected in attorney's fees, will, if necessary, be put to good use in any re-filed case. The Court agrees that the nonsuit is the best way for all parties to stop the meter on this litigation during the limited period of uncertainty about the underlying case.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

20 February 2013