

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

TERRELL PANKEY and  
SMITH COUNTY STONE, LLC

PLAINTIFFS

VS.

Civil No. 4:13-cv-4046

WESTERN ARKANSAS ROCK, INC.

DEFENDANT

**ORDER**

Before the Court is Plaintiffs' Motion to Disqualify Counselor in the Alternative, Preclude Counsel from Acting as Both Advocate and Witness. (ECF No. 90). Plaintiffs filed the present motion seeking to disqualify David Potter, a former defendant in this case, from serving both as counsel of record and as witness in this matter. David Potter responds that he has now been dismissed from this suit. Potter states that the remaining Defendant, Western Arkansas Rock, Inc. ("WAR"), is represented only by Joshua Potter and Jacob Potter. Accordingly, Potter maintains that he will not be serving as both advocate and witness and that the motion is moot.

Upon review of the docket, it appears that David Potter was added as counsel of record for WAR at some point. In light of Potter's response that he does not represent WAR, Potter is hereby withdrawn as counsel of record for WAR. WAR continues to be represented in this action by its remaining counsel of record, Joshua Potter.<sup>1</sup> In light of these developments, the Court finds that Plaintiffs' motion (ECF No. 90) should be and hereby is **DENIED AS MOOT**.

**IT IS SO ORDERED**, this 10th day of April, 2015.

/s/ Susan O. Hickey  
Susan O. Hickey  
United States District Judge

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<sup>1</sup> Jacob Potter is not currently listed as counsel of record for WAR. While he was listed on the initial pleadings for WAR, the clerk's office issued a notice on June 3, 2013 informing counsel that Jacob Potter would need to file a notice of appearance. It does not appear that he has done so. If Jacob Potter plans to appear at the trial of this matter, he must file notice of appearance as soon as possible.