

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

VANESSA GRIFFIN, ET AL

PLAINTIFFS

v.

Civil No. 4:14-cv-04065

TONY ALAMO a/k/a BERNIE L. HOFFMAN, ET AL.

DEFENDANTS

ORDER

BEFORE the Court is Plaintiffs' Motion to Compel Witness Testimony and Production of Documents. ECF No. 227. With this Motion, Plaintiffs seek to compel the witness testimony of former Federal Bureau of Investigation (FBI) Special Agent Randall Harris and current FBI Special Agent Timothy Akins. In addition, Plaintiffs seek to compel the production of documents from Department of Labor. Defendants responded to this Motion on July 11, 2016. ECF No. 235. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), United States District Judge Susan O. Hickey referred this Motion to the undersigned for decision. A hearing was held on this Motion on September 15, 2016. The Court having reviewed the pleadings and arguments of counsel finds Plaintiffs' Motion to Compel Witness Testimony and Production of Documents (ECF No. 227), should be **DENIED**.

Plaintiffs are seeking deposition or trial testimony of Federal Bureau of Investigation (FBI) Special Agent Randall Harris and current FBI Special Agent Timothy Akins. Plaintiffs have taken no steps to obtain this testimony, other than sending a single letter to the Department of Justice ("DOJ"). ECF No. 227-2. This letter fails to meet the requirements of 28 C.F.R. 16 Subpart B. This obligation has been referred to as a *Touhy* request. Further, Plaintiffs have not issued a subpoena for either individual to appear and testify. Likewise, Plaintiffs have failed to make any

formal request for documents from the Department of Labor.

Plaintiffs' motion is premature as they have failed to take the proper steps to obtain this testimony and requested documents. Further, the proper party, the United States, is not a party to this action and is not before the Court.

Accordingly, Plaintiffs' Motion to Compel Witness Testimony and Production of Documents (ECF No. 227) is **DENIED**.

IT IS SO ORDERED this **16th day of September 2016**.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE