

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHRIS WILHELM, et al.,)	
Plaintiffs,)	
)	
v.)	
)	Case No: 07-2465-KHV
TLC LAWN CARE, INC.,)	
Defendant.)	
)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs’ Motion for Attorney Fees and Non-Taxable Expenses (Doc. # 39) filed July 25, 2008.

On June 11, 2008, after both plaintiffs accepted defendant’s offers of judgment, the Court entered judgment in favor of Chris Wilhelm in the amount of \$928.00 and John Weber in the amount of \$1,008.50.¹ On June 17, 2008, plaintiffs filed an unopposed motion for extension of time requesting until July 25, 2008, to submit a request for attorneys’ fees and costs, so that the parties could meet and confer on plaintiffs’ fees. On July 19, 2008, The Honorable Gerald L. Rushfelt granted plaintiffs’ request. Then, on July 25, 2008, plaintiffs filed Plaintiffs’ Motion for Attorney Fees and Non-Taxable Expenses (Doc. # 39) seeking \$66,301.15 in statutory attorney’s fees and expenses pursuant to Fed. R. Civ. P. 54(d)(2).

Analysis

D. Kan. Rule 54.2 prohibits the Court from considering a motion to award statutory attorney’s fees under Fed. R. Civ. P. 54(d)(2) until the moving party first advises the court, in writing, that he or she has consulted with the opposing party to try to reach an agreement with regard to the fee award but has been unable to do so. D. Kan. Rule 54.2. The rule specifically requires the movant to present the Court a statement of consultation which sets forth “the date of

¹ Both plaintiffs received interest at the rate of 2.4 per cent.

the consultation, the names of those who participated, and the specific results achieved.” Id. The rule requires that the statement be filed within 30 days of the date the motion for attorneys’ fees was first filed. Id. The rule also contemplates that no memorandum in support of a Rule 54(d)(2) motion will be filed until and unless a statement of consultation has been filed. Id.

More than 30 days have passed since plaintiffs filed their fee request. As of this date, they have not filed the statement of consultation required by D. Kan. Rule 54.2. Though the parties have stated in their briefs that they have not agreed upon a reasonable statutory fee award, these statements do not comply with the rule’s requirements.

IT IS THEREFORE ORDERED that Plaintiffs’ Memorandum in Support of their Motion for Attorney Fees and Non-Taxable Expenses (Doc. # 40) filed July 25, 2008, be and hereby is **STRICKEN**.

Dated this 4th day of November, 2008, at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge