

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

<p>AVIS RENT A CAR SYSTEM, LLC, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>CITY OF DAYTON, OHIO,</p> <p style="text-align: center;">Defendant.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p style="text-align: right;">Case No. 3:12-cv-399</p> <p style="text-align: right;">JUDGE WALTER H. RICE</p>
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ORDER TO PLAINTIFFS AND DEFENDANT TO FILE NO FURTHER BRIEFS IN SUPPORT OR MEMORANDA CONTRA TO PLAINTIFFS' MOTIONS FOR ATTORNEYS' FEES UNDER RULE 54(d)(2) OF THE FEDERAL RULES OF CIVIL PROCEDURE (DOC. #82 AND DOC. #83); FOLLOWING RESOLUTION OF THIS MATTER BY THE COURT OF APPEALS, THE COURT WILL REQUEST FUTURE BRIEFING ON SAID MOTIONS, IF SAME REMAIN VIABLE


On August 22, 2013, the Court issued a Decision and Entry (Doc. #81) that dismissed the claims of Plaintiffs that were not resolved by its Decision and Entry Sustaining Plaintiffs' Motions for Summary Judgment (Doc. #77), and ordered Plaintiffs to file Motions for Attorneys' Fees under Federal Civil Rule 54(d)(2). The Court also requested that there be no briefing of the legal arguments in support of Plaintiffs' request for attorneys' fees. Rather, the Rule 54(d)(2) motions were to be filed simply in order to preserve Plaintiffs' rights to pursue attorney fees, in the event that the Court's summary judgment decision in their favor is upheld by the Court of Appeals for the Sixth Circuit.

Plaintiffs have filed their Rule 54(d)(2) motions, supported by memoranda in support. See Doc. #82 and Doc. #83. Plaintiffs were entirely within their rights to present their arguments for attorneys' fees with their motions; however, there is to be no more briefing on the issue at this time. The Court specifically notes that the City will not waive any argument in its defense by not briefing the issue at this time. Rather, the City will simply be complying with the Court's original request to postpone such briefing until the appellate process has concluded.

The Court's intention is to give all parties the opportunity to present all of their arguments, whether in support of Plaintiffs' Rule 54(d)(2) motions or against them. Because the quantification of attorneys' fees cannot be ripe for resolution until the conclusion of the appellate process, and a future evidentiary hearing may be necessary in addition to briefing and supplementation by the parties, it is simply not an effective use of the parties' resources to continue to brief the matter at this time.

Thus, the Court ORDERS the parties to delay any briefing on Plaintiffs' Rule 54(d)(2) motions until the Court provides a briefing schedule on the matter, which the Court will issue following the resolution of the appellate process, if said motions remain viable.

Date: September 16, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE