

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

TERESO ANNE TERNES, and TERESO
ANNE TERNES in her capacity as
Trustee of the TERNES FAMILY
TRUST,

Plaintiffs,

vs.

Case No. 08-CV-455-FHM

KIMBERLY K. TERNES, TERRENCE
DAN MARTIN, and RE-NEW WOOD,
INC., an Oklahoma corporation,

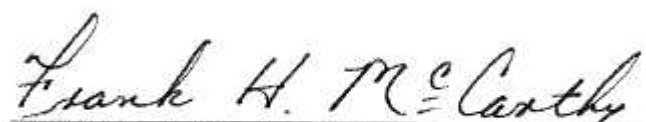
Defendants.

OPINION AND ORDER

Plaintiffs' Motion for Partial Summary Judgment [Dkt. 44] and Defendants' Motion to Withdraw Admissions [Dkt. 45] have been fully briefed and are ripe for determination. Plaintiffs' Motion for Partial Summary Judgment [Dkt. 44] is DENIED, and Defendants' Motion to Withdraw Admissions [Dkt. 45] is GRANTED.

Plaintiffs seek partial summary judgment primarily on the basis of Requests for Admissions which were served on Defendants Kimberly Ternes (Kimberly) and Terrence Dan Martin (Martin), which were not answered within 30 days after service, and which are therefore deemed admitted under Fed. R. Civ. P. 36(a)(3). Defendants seek leave of court under Rule 36(b) to permit withdrawal or amendment of the deemed admissions. The court finds that withdrawal and amendment should be permitted. Withdrawal and amendment of the admissions will promote presentation of the merits of the action. Further, there has been no showing that such action will unduly prejudice Plaintiffs in maintaining the action on the merits.

SO ORDERED this 21st day of January, 2010.



FRANK H. McCARTHY

UNITED STATES MAGISTRATE JUDGE