

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

JIM D. JOHNSON, and AMY JOHNSON,

Plaintiff,

vs.

LOVE, BEAL & NIXON, P.C. and
INFINITY ASSET ACCEPTANCE, LLC,

Defendants.

Case No.13-CV-129-CVE-FHM

OPINION AND ORDER

The Motion to Withdraw Attorney filed by Plaintiffs' attorney Victor R. Wandres, [Dkt. 53], has been referred to the undersigned United States Magistrate Judge for decision.

Mr. Wandres asks to be permitted to withdraw as counsel of record for Plaintiffs and that Plaintiffs be allowed 30 days additional time to secure alternative counsel to respond to the pending motion for attorney fees and costs. Plaintiffs have filed entries of appearances which indicates Plaintiffs approve of counsel's withdrawal and that they intend to proceed *pro se*. [Dkt. 58, 59].

The court notes that the motion for attorney fees filed by Defendant Love, Beal and Nixon, [Dkt. 50], is deficient. The motion for fees recounts the litigation history between the parties, but does not contain any information about the basis for calculating any award of fees. That is, Defendant did not submit an affidavit, any billing records, or a statement of the hourly rate for counsel as required by LCvR 55.1.¹ On or before February 14th,

¹ The court calculates a reasonable attorney fee by multiplying the reasonable number of hours spent on the litigation by a reasonable hourly rate. The burden of proving the number of hours and rate is on the applicant for fees. *Malloy vs. Monahan*, 73 F.3d 1012, 1017-18 (10th Cir. 1996). The number of hours requested must be proven "by submitting meticulous, contemporaneous time records that reveal, for each lawyer for whom fees are sought, all hours for which compensation is requested and how those hours were

2014, Defendants may file an amended motion for fees which contains the missing information about the number of hours and rates requested and otherwise complies with LCvR 54.2.

Plaintiffs are hereby advised that, regardless of whether they have obtained counsel, their response to Defendant's amended motion for fees is due on or before March 7, 2014. Plaintiffs are further advised that the failure to file a response may result in the motion for attorneys fees and costs being deemed confessed.

Defendant's reply brief, if any, is due on or before March 14, 2014.

The Motion to Withdraw Attorney filed by Plaintiffs' attorney Victor R. Wandres, [Dkt. 53], is GRANTED.

The following deadlines apply: Defendant's amended motion for attorney fees is due on or before February 14, 2014; Plaintiffs' response is due by March 7, 2014; Defendant's reply, if any is due by March 14, 2014.

SO ORDERED this 31st day of January, 2014.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE

allotted to specific tasks." *Case v. Unified School District No. 233, Johnson County, Kansas*, 157 F.3d 1243,1250 (10th Cir. 1998) citing *Ramos v. Lamm*, 713 F.2d 546, 552 (10th Cir. 1983).