

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|--------------------------|---|-----------------|
| MARGARET SUE CYPHERD and |) | |
| JOHN CYPHERD, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | No. 3:13-CV-232 |
| |) | (VARLAN/SHIRLEY |
| v. |) | |
| |) | |
| BELK, INC., |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is a Joint Motion to Withdraw Motion to Dismiss and for an Order of Withdrawal and Substitution [Doc. 9]. The combined request for both substitution of counsel and the withdrawal of a motion to dismiss is somewhat awkward procedurally, but in order to save the parties' resources, the Court will address both prayers for relief herein.

First, the parties state that the Defendant's Motion to Dismiss has been rendered moot by the appearance of substitute counsel in this matter. The parties agree that the Motion to Dismiss should, therefore, be denied as moot. Based upon the parties' agreement on this point, the Court finds that the request to withdraw the Motion to Dismiss [Doc. 9] is well-taken, and it is **GRANTED**. Accordingly, the Motion to Dismiss [Doc. 5] is **DENIED AS MOOT**.

Second, the parties move the Court to allow Attorney J. Terry Holland to withdraw as counsel for the Plaintiffs and to permit Attorney Bryan L. Capps to be substituted as counsel for the Plaintiffs. Again, there is no objection to this request, and because continuity of counsel for

the Plaintiffs is ensured, the Court finds that the request is well-taken. The Motion to Withdraw as Counsel [Doc. 9] is well-taken, and it is **GRANTED**. Attorney J. Terry Holland is **RELIEVED** of his duties as counsel, and Attorney Bryan L. Capps is **SUBSTITUTED** as counsel for the Plaintiffs.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge