

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

KENNETH GAYNOR, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) No. 3:15-CV-545-TAV-CCS  
 )  
 )  
 DEPLOY MILLER, *et al.*, )  
 )  
 Defendants. )

**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 the Motion to Withdraw as Counsel for Defendant Scott Boruff [Doc. 69]. The Motion requests that Attorneys Lawrence P. Leibowitz, Jennifer K. Hemmelgarn, Brandon J. Tindell and the Leibowitz Law Firm, PLLC, be allowed to withdraw from representing Defendant Boruff in this matter. The Motion states that conflicts have arisen in the course of the attorney-client relationship that precludes further representation in this matter. The Motion includes Defendant Boruff's current address and telephone number. Attached to the Motion is Defendant Boruff's Consent to Withdrawal. Finally, the Motion requests that the Court stay this matter for forty-five days so that Defendant Boruff may find new counsel. The Plaintiff filed a response [Doc. 60] stating that while he does not object to the withdrawal of counsel, she does object to the request for a stay. The Plaintiff asserts that the pending Motion to Remand has been fully briefed and that there is no reason to stay or delay a decision on the pending Motion.

The Court finds that the instant Motion complies with the Local Rules of this Court. See L.R. 83.4(g). In addition, the Court finds good cause to allow counsel to withdraw from representing Defendant Boruff. The Court expects Attorneys Leibowitz, Hemmelgarn, Tindell, and the Leibowitz Law Firm, PLLC, to provide copies of any relevant documents to any future counsel for Defendant Boruff or directly to Defendant Boruff upon request. Otherwise, Attorneys Leibowitz, Hemmelgarn, Tindell, and the Leibowitz Law Firm, PLLC, are **RELIEVED** of their duties as counsel in this case.

With respect to the request to stay this action for forty-five days, the Court finds this request not well-taken. The pending Motion to Remand has already been briefed and is ready for adjudication. With respect to the other pending motions in this case, the undersigned held them in abeyance until a decision on the Motion to Remand is issued. Thus, the Court finds that there is no basis to stay this action for forty-five days pending Defendant Boruff's attempt to obtain new counsel.

Defendant Boruff is hereby **ADMONISHED** that his is **DEEMED** to be proceeding *pro se*. Until he obtains substitute counsel, it is his obligation to stay up to date on the status of this case and comply with the deadlines set by the Court. Likewise, if he elects to proceed in this case without an attorney, he is responsible for complying with all deadlines set by the Court and responding to any requests for relief by other parties, see E.D. Tenn. L.R. 7.1. Defendant Boruff, like any other party, will be expected to comply with the Federal Rules of Civil Procedure, the Local Rules, and the Court's Orders. To the extent Defendant Boruff plans to retain new counsel, he should do so as soon as possible.

Accordingly, the Motion to Withdraw as Counsel for Defendant Scott Boruff [**Doc. 69**] is hereby **GRANTED IN PART AND DENIED IN PART**. The Clerk of Court is **DIRECTED** to

mail a copy of this Memorandum and Order to Defendant Boruff at the address provided in the Motion and to enter that address as his contact information in the docket.

**IT IS SO ORDERED.**

ENTER:

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