

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS  
JUL 16 2004  
JAMES W. MCCORMACK, CLERK  
DEP. CLERK  
PLAINTIFF

**MICHAEL GALSTER**

**VS.**

**CASE NO. 4:03-CV-01013 GTE**

**KELLY DUDA**

**DEFENDANT/COUNTER-CLAIMANT**

**ORDER**

Before the Court is a Motion for Leave to Withdraw filed by Defendant's counsel, David O. Bowden and Steven R. Smith (hereinafter, "defense counsel"). For cause, the motion indicates that conflicts with Mr. Duda exist to the point that defense counsel can no longer represent Mr. Duda consistent with their obligations under the Model Rules of Professional Conduct, specifically, Model Rule 1.7.

The Court has concerns about permitting defense counsel's withdrawal until the issue of how Mr. Duda intends to defend this action and prosecute his Counter-claims is resolved and arrangements are made for the Court to communicate with Mr. Duda's new counsel or Mr. Duda personally. Accordingly, the Court will hold in abeyance defense counsel's Motion to Withdraw as Counsel.

**Defendant Kelly Duda is hereby directed to either: (1) obtain new counsel and have him or her enter an entry of appearance; or (2) state his intention to proceed pro se and provide the Court with contact information. Defendant Kelly Duda shall so respond to this Order in writing not later than July 30, 2004. Defense counsel are directed to provide Mr. Duda with a copy of this Order, explain its requirements, and stand ready to tender Mr.**

Duda's file.

The Court has additional concerns about the safety of certain documents relevant to this litigation. In connection with its entry of a Preliminary Injunction in this case, the Court directed certain materials previously in the possession of Mr. Duda to be placed with a third-party for safe-keeping. The Court understands that those materials are presently in the possession of Mr. Smith. In view of the fact that Mr. Smith is seeking to terminate his representation of Mr. Duda, defense counsel is also directed to discuss with Plaintiff's counsel and Mr. Duda what is to be done with these materials. The materials shall either remain with Mr. Smith or additional arrangements shall be made to ensure the continued safekeeping of these materials. Defense counsel are directed to report to the Court **not later than July 30, 2004**, what arrangements have been made with regard to these materials and whether Plaintiff's counsel agrees to such arrangements.

#### CONCLUSION

IT IS THEREFORE ORDERED that the Court will hold in abeyance Defense Counsel's Motion to Withdraw (Docket # 29) pending compliance with this Order.

IT IS SO ORDERED this <sup>16<sup>th</sup></sup> ~~21<sup>st</sup>~~ day of July, 2004.

*Darnita Thomas Circle*  
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON  
DOCKET SHEET IN COMPLIANCE  
WITH RULE 58 AND/OR 79(a) FRCP  
ON 7-19-04 BY *[Signature]*

jh

UNITED STATES DISTRICT COURT  
Eastern District of Arkansas  
U.S. Court House  
600 West Capitol, Suite 402  
Little Rock, Arkansas 72201-3325

July 19, 2004

\* \* MAILING CERTIFICATE OF CLERK \* \*

Re: 4:03-cv-01013.

True and correct copies of the attached were mailed by the clerk to the following:

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Press

James W. McCormack, Clerk

Date: 7-19-04

BY: 